THE SUFFERING OF OTHERS

The human cost of the International Finance Corporation's lending through financial intermediaries

An indigenous woman in Monte Olivo, Guatemala, whose community has suffered repression linked to an IFC-backed project.[1] Photo: Consejo de Pueblos de Tezulutlán

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Increasingly, development money is being channelled through third parties such as banks or private equity funds. The world's leading proponent of this financing model, the International Finance Corporation, spent $36bn this way in just the four years leading up to June 2013.[2] But what does this 'hands-off' form of development financing mean for people? Are the risks to communities and their livelihoods just too high given the weaker social and environmental protections entailed? This report tells the human story behind the high finance and statistics, and asks whether reforms to this model of lending have gone far enough to protect communities.

INTRODUCTION

Since the financial crisis of 2008, the World Bank Group (WBG) has increased its lending to the financial sector dramatically. The private sector arm of the WBG, the International Finance Corporation (IFC) invested $36bn in financial intermediaries, which include commercial banks, private equity and hedge funds, in the four years leading up to June 2013.[3] According to recent research, investment in the financial sector outstrips WBG lending to important social sectors: totalling 50 percent more than direct lending to health, and three times the amount the WBG lent directly to education in the same period.[4] Meanwhile, criticisms about this model of financing and the human and environmental costs it entails have grown.

Financial sector lending has come to dominate the WBG's portfolio. It comprises 62 percent of the IFC's total spending, which in turn represents half of WBG activity.[5] It is also increasingly a favoured model of lending for many of the biggest and most influential lending institutions in the world: from the Brazilian development bank BNDES and the European Investment Bank, to the Green Climate Fund and the new Global Infrastructure Facility.[6]

The IFC's rationale for investing in the financial sector is that it spurs economic growth and allows it to expand 'its reach and development impact'.[7] It argues that 'IFC invests in FIs [financial intermediaries] as a means to achieve the twin goals of ending extreme poverty and boosting shared prosperity.'[8] In developing economies there is indeed a gap to be filled: access to financial services and private finance plays a critical role in economic and social development, and is often sorely lacking.[9] However, the IFC's flawed system of measuring development impacts of financial intermediary (FI) lending means that it has little proof of positive development outcomes. According to a highly critical report by the WBG's Independent Evaluation Group, this system 'is based on 'proxy' figures from the financial institutions' portfolio, such as number of loans given to a targeted business segment and the quality of that portfolio. IFC has limited knowledge about the underlying results on its end-beneficiaries, and any claims would be difficult to attribute to the IFC intervention.'[10]

'While public institutions claim that this approach allows for more efficient allocation of capital, increased leverage of private funds, or better targeting of small and medium enterprises, they have little proof that investments create positive development outcomes, let alone do no harm to communities or the environment.'

Bretton Woods Project[11]

But such criticisms are not new. In numerous reports,[12] letters exchanged between civil society organizations (CSOs) and the Bank,[13] and in audits and monitoring reports,[14] proponents and critics of this financing model have traded technical arguments and statistics. What has been neglected is the human story—the tangible impacts on some of the poorest and most vulnerable people in developing countries. The crux of the issue is whether, by channelling funds through third parties, the IFC loses control over how the money is eventually spent. Under the model currently followed, the IFC requires its client to adhere to its social and environmental safeguard policies.[15] However, the IFC does not ensure those same standards are met in the majority of the projects the client then funds. If, as the Bank's own watchdog claims,[16] the IFC often does not know where its money ends up, and cannot therefore guarantee that it does no harm (or indeed has a positive development impact), what does this mean for the people on the ground affected by the projects that this distant money finances? This is the critical question, and one that the WBG, its Board and shareholders, as well as other lending institutions need to examine and address before ploughing headlong into further expansion of FI lending.

The IFC has already enacted reforms to its FI lending in response to criticisms over the last couple of years. The Vice-President of the IFC Jin-Yong Cai has stated ‘We will measure our success by the development impact of our projects—not by the dollar volume of our investments. Toward that end, we are changing our institutional culture.’[17]

But do such intended reforms go far enough? This report aims to examine some basic but critical questions: first and foremost, what are the human costs of FI lending when environmental and social safeguards fail? Why do those safeguards fail? How far have reforms addressed these problems? What more needs to be done to ensure communities do not suffer, and if they do, how can they hold funders to account?

PEOPLE'S STORIES FROM CAMBODIA AND LAOS, HONDURAS, INDIA AND GUATEMALA

Cambodia and Laos: IFC investment in Dragon Capital Group Ltd

Kanat Thom community confront the company's bulldozer to protect their spirit forest. Photo: Equitable Cambodia

Project summary

Since 2002, the IFC has invested a total of $26.95m in Vietnam-based investment group Dragon Capital Group Ltd (DCGL) and one of its managed funds, Vietnamese Enterprise Investments Ltd (VEIL).[18] According to the IFC, the objectives of its investment are to support the Vietnamese government's market reform initiatives and promote the development of the Vietnamese securities market. One of the ways the IFC envisaged achieving these objectives was by 'furthering good corporate governance in DCGL, making it an example to be emulated by Vietnamese companies.'[19] The investments were categorized by the IFC as high/medium risk (FI Type 1/Type 2). According to publicly available documentation, the required social and environmental management system included ensuring compliance with host country requirements, including for subprojects 'financed with IFC funds through the credit line'. DCGL was also required to ensure compliance with IFC environmental and social safeguards policies.[20]

However, owing to lack of IFC transparency, it is impossible to determine whether these steps were indeed taken—for example, environmental reviews and annual performance reports carried out by DCGL/VEIL, if any—and the IFC's assessment of its client's capability to carry out these environmental reviews, if any, are not publicly available. The communities' complaint to the IFC's watchdog, the Compliance Adviser/Ombudsman (CAO) concludes: 'Despite the lack of available information, it is clear that the IFC did not carry out its appraisal and supervision requirements in an effective and robust manner. If

efforts were made to compel its client to improve its environmental and social management system (ESMS) and ensure that its subproject was in compliance with Cambodian laws, these efforts were not effective.'[21]

DCGL/VEIL owns shares in one of Vietnam's largest private companies, Hoàng Anh Gia Lai (HAGL).[22] HAGL holds land concessions covering an area of some 50,000 hectares for natural rubber, sugarcane and palm oil plantations in neighbouring Cambodia and Laos, through several wholly and partially owned subsidiaries.

Project impacts

> *'We work very hard now… we do not have enough food to eat since the concession… when there is insufficient food, we keep food for our kids and husband.'*
>
> Female villager, Kak village, Ratanakiri

HAGL's concessions in Cambodia and Laos overlap considerably with land legally claimed and depended upon by local communities, including the ancestral lands of indigenous peoples.[23] In Cambodia's Ratanakiri province, at least 18 villages, home to some 15,000 people, have been adversely affected or threatened by HAGL's plantation development. In Laos' Attapeu and Xekong provinces, many indigenous communities have also been affected. Communities affected by the company's plantations in both countries have suffered serious harm, amounting to human rights violations.[24]

On a sliver of land surrounded by a HAGL plantation, Mam Sen of Inn village refuses to leave the land which has been in her family since her great grandparents. Photo: Equitable Cambodia

Neither HAGL, nor authorities in either country, sought the free, prior and informed consent of indigenous communities despite the serious and direct effects on their lands, territories and natural resources. Threats and intimidation have precluded the possibility of free expression of opposition to the project.

According to a recent survey of 13 affected villages, at least 164 households lost residential plots and individually held farmland, while entire communities suffered losses of communal lands, and forests.[25] Sites sacred to the local communities, including spirit forests and burial grounds, were also desecrated or destroyed.

> *'Our people used to have a large forest for finding vines, getting resin, cutting trees for building homes. But now, since the company came, there is nothing. It is finished.'*
>
> Male villager, Inn village, Ratanakiri

'We want the World Bank to know that its money is being used to destroy our way of life. Nowadays, we are surrounded by companies. They have taken our community lands and forests. Soon we fear there will be no more land left for us at all and we will lose our identity. Does the World Bank think this is development?'

Representative of one of the communities that submitted the CAO complaint

The confiscation of land and destruction of forests has resulted in a sharp deterioration in living standards of the communities affected, with 91 percent reporting a drop in household income.[26] The loss of land, forests and the pollution of streams by chemicals used in HAGL's plantations have drastically reduced the ability of local residents to farm, hunt, fish and tap their resin. This has also led to food insecurity in some villages.[27] Women face challenges in fulfilling their daily tasks such as collecting non-timber forest products, including firewood and vegetables, tending cattle and working on their farms.

Affected communities have been unable to access effective remedies for these human rights violations. In some cases the company provided low amounts of compensation for loss of farming land; however households interviewed by Equitable Cambodia and Inclusive Development International regard the payments as inadequate and inappropriate, and they want their land to be returned. No compensation whatsoever has been provided for lost forests, communal land and polluted streams.[28]

> *'We do not want cash compensation. We would like to have our land back because we never rely on money for living based on our tradition. Unlike land, money could not feed us and our next generations in the long-term.'*
>
> Male villager, Kanat Thom Village, Ratanakiri

In concession areas in both Cambodia and Laos, high-value conservation and carbon stock forests have been felled to make way for the company's plantations, in violation of national laws.[29] Of additional concern is that when HAGL became listed on London's Professional Securities Market, it publicly admitted that it was not following the national laws: '*Certain of our existing projects are being developed without necessary government approvals, permits or licenses and development and operation of certain projects are not fully in compliance with applicable laws and regulations*'.[30] However, neither the IFC nor other major investors claimed to have been aware of this disclosure.[31] HAGL maintains that throughout its investment process in Cambodia, it has always complied with host country laws and regulations.[32]

In February 2014, affected communities in Cambodia filed a complaint to the CAO. HAGL and the affected communities met for the first time in a formal dispute resolution process in January 2015. However, affected communities in Laos continue to suffer loss of land and natural resources without recourse and are for the main part unaware of the possibility of lodging a complaint with the CAO.

Honduras: IFC investment in Banco Ficohsa

A team from the Committee of Relatives of the Disappeared in Honduras (COFADEH) visits Marta Julia López, widow of Ciriaco de Jesús Muñoz. Photo: defensoresenlinea.com

Project summary

In 2011 the IFC invested $70m in Banco Ficohsa (Ficohsa), a Honduran bank that funds small and medium-sized enterprises.[33] Corporación Dinant (Dinant) is an integrated agribusiness company in Honduras which received a $15m direct loan from the IFC in 2009.[34] In response to allegations of violence against farmers on and around Dinant oil palm plantations in Honduras' Aguán Valley,[35] the CAO initiated a compliance audit of the Dinant investment in August 2012, finding significant failures in the IFC´s assessment of risk and implementation of its environmental and social policies. During this audit in 2013, the CAO became aware that Dinant was one of Ficohsa's largest borrowers and as a result the IFC had a significant exposure to Dinant through its investment in Ficohsa.[36] Therefore in August 2013, the CAO initiated a second investigation into the Ficohsa loan.[37]

The CAO report on the Ficohsa loan criticized the IFC for supporting Ficohsa without proper vetting, as its earlier findings against Dinant meant the IFC was now re-exposed to a company accused of fomenting land conflict and violence.[38] The approval of the Ficohsa loan went ahead even after the IFC knew about the problems with the Dinant loan. Not only was Dinant Ficohsa's third largest client at the time of the loan, but the CAO also noted that in 2012 Ficohsa reported 64 Category A clients – those at high risk of causing negative environmental or social impacts. Of these only 48 percent were in compliance with its environmental and social policies. The CAO found that despite this, the IFC did not identify measures its client should take to mitigate these risks: a large-scale failure of due diligence.[39] The IFC's lack of transparency on the identity of Ficohsa's high-risk clients makes it impossible to verify the full impact of these failures.

Project impacts

> *'Poor people need the land to cultivate … I am no longer like I was before when he [Teodoro Acosta] was here. Everything has changed and no one is protecting me, only God.'*
>
> María Concepción Membreño, widow of Teodoro Acosta

In the 1990s and 2000s, the Honduran government passed a series of laws assigning state-owned land that was formerly part of a military training centre to landless farmers in the Aguán Valley. While much of this land was transferred without incident, controversy erupted over El Tumbador farm, a property that the National Agrarian Institute (INA) considered state-owned, but that businessman Miguel Facussé, owner of Dinant and Ficohsa's third largest client, claimed as his own.[40] Due to the Honduran government´s apparent inability to resolve the dispute, members of the Aguán Farmers' Movement (MCA) occupied part of the El Tumbador farm.[41] They farmed for four months before being evicted by Honduran armed forces and Dinant's security guards on 14 August 2010.

On 15 November 2010, the farmers set out with the aim of retaking the land as a last resort measure to pressure the government to take action to resolve the dispute.[42] According to witness statements, when the group of approximately 160 farmers approached El Tumbador they were fired on by members of the Honduran military's 15th Battalion and Dinant-hired security guards.[43] Four *campesinos* were wounded, and the group fled to a neighbouring farm. As one witness recounted, 'Some of us had machetes and food, that's all. There was a hail of bullets. I ran and got shot in the mouth', he told researchers, showing a scar on his face from a gunshot wound.[44]

As news of the shooting spread, farmers began to receive telephone calls from neighbours reporting that truckloads of security forces were approaching the farm.[45] Without warning, the crowd was fired upon from two sides with high-calibre weapons. Farmers fled for cover in the brush in an attempt to escape. For over four hours security forces combed the area for survivors. Some witnesses report having been found by security forces who pointed guns at them and told them to run. Others were not so lucky: Teodoro Acosta, Raul Castillo, Ignacio Reyes García, Ciriaco de Jesús Muñoz and José Luis Sauceda Pastrana were all killed during the attack.[46] Autopsies show that Sauceda and Castillo were shot from behind; that Acosta's body had seven bullet wounds; and that Reyes and Acosta were shot at close range. According to a witness from the Guadalupe Carney community 'I was coming back home when they caught up with him [Ignacio Reyes García], they got down from the military truck and beat him savagely, then they shot him through the left side of his head.'[47] In addition to the five deaths, there were reports of four women being raped during the chaos.[48]

María Concepción Membreño, widow of activist Teodoro Acosto, providing statements to the journalist Marvin Palacios. Photo: defensoresenlinea.com

Dinant, in an email sent to human rights group International Federation for Human Rights (FIDH) on 6 May 2011, claimed that the security guards shot in self defence: 'Regarding the 5 deaths related to the report, and the incident at the El Tumbador estate, the Orion security company security guards (a company sub-contracted by our company to guard the company's property) shot in self-defence, as they were being attacked by invaders with high-calibre weapons. At our insistence, the security guards have been placed at the disposition of the competent authorities, and to our understanding, have open proceedings against them so that the 5 deaths can be shown to be a result of their actions taken to defend their lives, or to establish the nature of the events that occurred on this regrettable day. The company has not denied this incident and in fact has been collaborating with the authorities in the investigation to help clarify this regrettable situation.'[49]

The farmers' organizations vehemently deny the allegations, affirming that they were unarmed and that weapons were posthumously placed on the farmers' bodies. The widow of one farmer who was killed, who to date does not know if anyone is investigating her husband's death, expressed anger at photographs which appeared in the Facussé-owned *La Tribuna* daily newspaper in which her deceased husband appears with an AK-47 resting across his chest. Pointing to her thatched house she said, 'How are we ever going to have one of those weapons? Don't you see how we live? Sometimes we don't even have enough to eat.' She also stated that a local journalist told her that he was the first to take photographs of the bodies, and that they had no such weapons on them at that time.[50]

This tragedy has been compounded by failure to bring the killers to justice. Though a judge charged five security guards with homicide in December 2012, just one month later another judge provisionally dismissed the charges on the grounds that the prosecution lacked evidence. The official investigation was rife with procedural errors and has compounded the challenge of a successful prosecution as prosecutors declined to appeal the judge's dismissal.[51] Dinant

owner Miguel Facussé refused to respond to a summons to testify and has never been investigated for his supervisory role over the guards implicated in the violence. To date no one has been held accountable for the massacre; in April 2014, however, the Special Unit for the Investigation and Prosecution of Violent Deaths in the Bajo Aguán Zone informed local non-government organization COFADEH that the unit had initiated a new investigation into the killings.

In April 2014, in response to pressure from both civil society and its own Board[52] following the CAO's investigation report on the IFC's loan to Dinant, the IFC formulated an Action Plan[53] and hired the Washington DC-based Consensus Building Institute to determine whether mediation to resolve the conflicts between the government, Dinant and affected communities is possible. The IFC also contracted the law firm Foley Hoag to advise it on security forces and human rights issues related to Dinant's Security Action Plan, and to facilitate an inquiry by a credible third party into past allegations related to Dinant security force's actions in the Aguán Valley. Dinant has committed itself to implementing the Voluntary Principles on Security and Human Rights. For its part, the Honduran government has created a special unit to investigate 147 killings that have taken place in the framework of the Aguán Valley conflict to determine the real causes, identify those responsible and secure their capture and prosecution.[54] Oxfam hopes that these positive efforts will be maintained and further strengthened to ensure that justice prevails in the resolution of the killings and the land conflict.

Nevertheless, while these positive efforts may bring some improvements in the situation, none of these actions will be able to compensate for the suffering of the El Tumbador victims´ families, who face an uncertain future. The widows of the deceased talk of the difficulty in feeding their children after losing their partners' support. María Concepción Membreño, widow of Teodoro Acosta, is now raising five children on a small plot of land in Guadalupe Carney community. [55] For Martha Julia López Oliva, widow of Ciriaco de Jesús Muñoz and mother of four, 'the murder of my husband has changed my life, these are very difficult days, facing fear and economic uncertainty, surviving is complicated... it is not the same without him.'[56] The other widows endure similar ordeals. Four years after the tragic events that destroyed the lives of these farming families, their legal case is paralyzed and they have little hope of justice, unless there is sufficient political will to ensure the effective and impartial investigation of killings in the Bajo Aguán.

Guatemala: IFC investment in Inter-American Infrastructure Finance Corporation (CIFI)

Women and men of Barillas maintain a passive resistance and reject the construction of a hydroelectric dam. Photo: Giovany Ujpan Mendoza, Oxfam

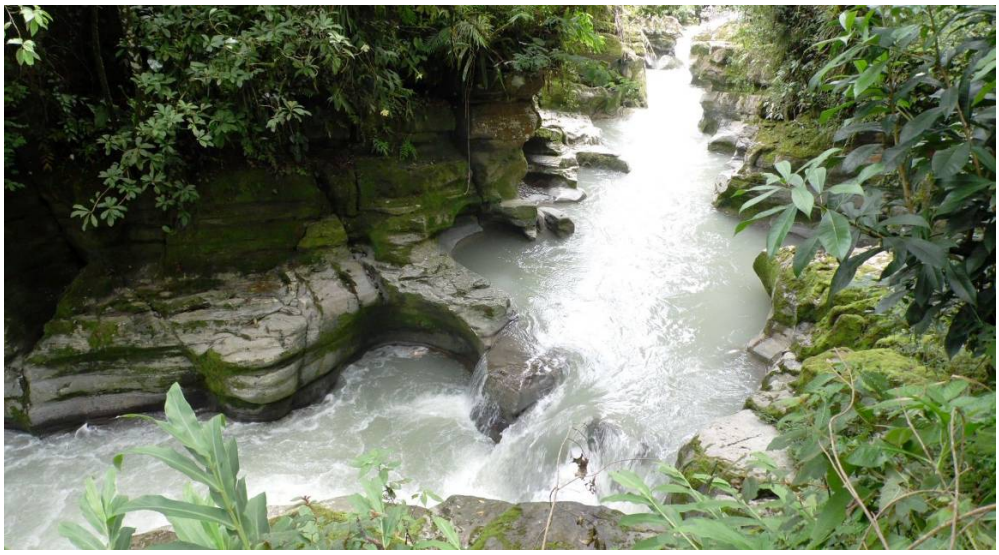
Project summary

In 2008, the IFC provided $20m in loans and $10m in equity to the Corporación Interamericana para el Financiamiento de Infraestructura (CIFI), a financial institution that funds small and mid-sized infrastructure projects in Latin America. CIFI, in turn, provided Hidro Santa Cruz (HSC) with a $8.2m loan and up to $2.5m for a mezzanine facility.[57]

In 2009, HSC, a subsidiary of Spanish company Hidralia, began buying land in Santa Cruz Barillas, a relatively calm and isolated region of Huehuetenango, Guatemala. The company acquired 10 hectares of land through intermediaries, explaining to sellers that the property would be used for coffee and cardamom cultivation.[58] In reality, the company was preparing to construct a hydroelectric dam, called Cambalam. HSC's failure to consult openly with neighbouring communities engendered distrust among local people, a predominantly indigenous Mayan population that adheres to ancestral values and relies upon subsistence farming. The communities began to voice opposition as armed guards and security installations entered the region; tension escalated further still as HSC started to construct access roads and install construction equipment around a waterfall of spiritual significance to local people. The company's failure to engage with the community and the resultant distrust has sparked a series of kidnappings, arrests and violence that has left Barillas shrouded in fear.

CIFI documents characterize the Cambalam project as 'socially conscious', state that it has 'no conflict with local communities' and applauds its 'strong support from local and national constituencies'.[59] CIFI classified the dam as 'Category B'—not high risk—as 'the potential environmental and social impacts and risks

are limited', and committed to conform to the IFC's Performance Standards on indigenous peoples, environmental and social impacts, and land acquisition.[60]



The Q'anb'alm River, site of the proposed Cambalam dam, owes its name to the local Mayan language Q'anjob'al, which means 'Yellow Jaguar'. Photo: Giovany Ujpan Mendoza, Oxfam

Project impacts

> *'We are not against hydroelectric power … what we are against is the treacherous way these men act, accusing people and transforming them into criminals.'*
>
> Interview with a community leader with an arrest warrant, 7 September 2012

Distrust boiled over into violence in 2009, when clashes led to local residents detaining company security guards and asking them to sign a commitment to evacuate the region. From that moment on, the company began to use legal means against those who opposed the project. The company worked in tandem with the government to silence opposition, with state courts issuing dozens of arrest warrants against community leaders who, by virtue of their poverty, were unable to defend themselves. The Barillas conflict has devolved into a cycle of community protests, violent crackdowns from state and company authorities, an accompanying crackdown and arrest of local activists and ever-increasing community dissent.

'I never imagined that there would be deaths, kidnappings, and all of the chaos they brought us. Until that day we woke up, because we had been fast asleep, I think.'

Barillas resident Catarina

Extraordinarily, the dispute between HSC and local residents became so intense that in 2012, the Guatemalan government declared a state of emergency in Barillas for the first time since the end of Guatemala's civil war. A variety of civil and political rights were suspended in the area. Local people reported house raids, warrantless arrests, sexual violence, theft, intimidation, destruction of property and other forms of abuse of authority.[61] At least one local protestor, Andrés Pedro Miguel,[62] was killed and several others injured.[63] As Barillas resident Catarina reflects, 'I never imagined that there would be deaths, kidnappings, and all of the chaos they brought us. Until that day we woke up, because we had been fast asleep, I think.'[64]

In a resistance camp, community members are informed about their rights and agree how to proceed with their case. They ask that organizations and citizens of Guatemala and the world continue to show solidarity with them. Photo: Giovany Ujpan Mendoza, Oxfam

The impacts of the project on local communities are most clearly seen in the targeted arrest of local activists. Community leaders Maynor Lopez, Rubén Herrera, Saúl Méndez, and Rogelio Velásquez have all been jailed for their outspoken opposition to the project.[65] As of January 2015, Saúl Méndez and Rogelio Velásquez had spent one-and-a-half years in jail, having been sentenced to 33 years in prison for two counts of murder, following a judicial process fraught with inconsistencies. Nine activists from Barillas, who had been arrested by private citizens without warrants back in 2012, remain imprisoned as of publication of this paper. This has wrought devastating impacts on their families, who have borne the economic costs. As Barillas resident Maria Cristina explains, '11 women suffer daily, because they have to look after themselves, their children, with a heavy load on their backs, [thinking] how to save their imprisoned husbands.' In September 2013 the Guatemalan Court for High Risk Crimes acquitted two HSC employees of involvement in Pedro Miguel's 2012 killing.[66]

Four years after the Cambalam project broke ground, operations have been abandoned. Questions remain around why a relatively small project has generated such a disproportionately large conflict, and why HSC has devoted so many resources to a confrontation with local communities even though it continues to fail to realize any economic benefits. Caterina sums up life in Barillas after HSC's arrival: 'One lives in misery, for what we want is freedom at once, because now all the families live in fear.'[67]

> *'Everyone would like to speak up and say no, we don't want it [the project]. But they say if we speak up we will become criminals like them, so it's better that we stay quiet. When we return, we are going to continue to lead our communities because our resources are at stake.'*
>
> Fugitive community leader in Santa Cruz Barillas, interview 7 September 2012

India: IFC investment in India Infrastructure Fund

The GKEL power plant in Odisha. Photo: Joe Athialy

Project summary

In 2008, the IFC made a $100m equity investment in the India Infrastructure Fund (IIF).[68] The IFC's rationale for this investment was to address 'a key constraint for developers of private or public-private partnership infrastructure projects in India – the availability of equity capital. [...] central to economic growth, improved living standards, and broader development.'[69] The IFC also claimed that the expected development outcome would include IFC's work with the IIF to develop its Social & Environmental Management System, 'through which the Fund will oversee the social and environmental risks of all Fund investments, thus ensuring improved performance of all projects in which the Fund invests.'[70] The IFC noted that 'given the types of infrastructure projects in which the infrastructure fund would invest (including ports, roads, hydropower and railways), the environmental and social impacts were likely to be significant.'[71]

One of the IIF's investments—a 1,400MW power plant in Odisha—prompted the first ever complaint brought by communities to the CAO concerning an IFC FI project. In April 2011, Odisha Chas Parivesh Surekhsa Parishad, a grassroots organization, and Delhi Forum, an advocacy and research organization, filed the complaint on behalf of over 5,000 people affected by the GMR Kamalanga Energy Limited (GKEL) project.[72] The complaint voiced concerns about information disclosure related to the potential environmental and social impacts of GKEL, and more broadly, IFC's financing[73] through financial intermediaries. The complaint alleges that investment in the IIF was used to route funding to a project that was not compliant with IFC's own safeguards.[74]

Project impacts

> *'Out of the total number of people affected, 25 percent are tribals (indigenous people) and 35 percent are marginalized people (Dalits). The Constitutional rights they enjoy are flouted and are made further vulnerable. We hold World Bank responsible for our misery. Today, we are left landless and without any livelihood.'*
>
> Interview with Dukhbandhu Bhoi, from Achalkut village.

The GKEL project has been marked by serious environmental and social concerns, including a flawed land acquisition process and the intimidation of affected communities. The project required almost 1,200 acres of multi-crop irrigated land to be diverted for industrial use, contrary to Odisha state law.[75] Almost 1,300 families lost their agricultural lands and another 100 have been economically displaced by the project. The acquisition of 78 acres of forest, without recognizing the rights of the community, is in violation of the 2006 Recognition of Forest Rights Act.[76] Families report being coerced and threatened into parting with land at very low prices, over $1,600 lower than mean values for the area for the three years prior to the beginning of the project.[77] Communities also maintain that land has been forcibly acquired from indigenous and low-caste families—which include Scheduled Caste and Dalit peoples who are constitutionally protected.[78] The GKEL project has increased landlessness in the area by approximately 23 percent, according to recent research.[79]

Women affected by the GKEL project attending a meeting. Photo: Ranjan Panda

> *'The company offered compensation which is much below the market rates. We demanded compensation at market rates or alternate houses in the locality, and jobs at the project for all three brothers. For refusing to give up these demands, I was threatened many times.'*
>
> Interview with Baishnav Sahu, from Maniabeda village.

The complaint to the CAO[80] claims that no adequate public hearing was held, which is mandatory in any land acquisition process[81] and that project information—including Environmental Impact Assessments—was not made available to the affected communities. Echoing long-standing concerns from civil society worldwide, the complaint argues that information about the IFC's involvement in the project was extremely difficult to obtain, making it impossible for affected communities to voice concerns about GKEL in advance of project approval.[82]

Affected communities who have demanded a rehabilitation package have suffered intimidation. In June 2010, thousands of villagers tried to attend a meeting about rehabilitation but were refused entry, and angry clashes resulted. Subsequently, police raided the villages, beat up men and women, registered a case against 500 villagers and arrested 48 people, including four women.[83] Villagers fled and hid in the forests for many days. Since then, people have been living in fear.

The GKEL project has exacerbated the poor living conditions of communities who already lived in a highly polluted area—found to be the second most polluted area of 88 industrial clusters by India's Central Pollution Control Board in 2012.[84] The Brahmani river on which members of affected communities depend for their daily water usage has been declared unfit for drinking and bathing by the Odisha State Pollution Control Board.[85] Although water for the project was supposed to be sourced from the river, affected communities claim that GKEL has depleted the underground aquifer by drilling wells inside the project area and in neighbouring private land.[86] Also, the construction of a wall around the factory has destroyed the local irrigation system, and the subcanals which irrigated the land have now run dry.[87]

Contrary to the promises made by the company, very few jobs were created for members of the community. Recent research found that only about 11 percent of the project-affected people have gained work with GKEL, and those workers were only offered subcontracts with no job security.[88]

The company maintains that they obtained all the required clearances from the Government of India and Government of Odisha before setting up the project. Company representatives note the company's commitment to good relations with its host communities, for example through the GMR Varalakshmi Foundation activities aimed at supporting local livelihoods.[89] The CAO investigation of this case has been completed and is expected to be published later this year.

THE SUFFERING OF OTHERS: THE CASE FOR REFORM

Acknowledging mistakes and making progress…

In the face of substantial criticisms of its model of lending through financial intermediaries—from its own watchdog, Board and from CSOs and affected communities—the IFC has taken steps to address concerns. Although its first reaction to the highly critical CAO audit of its FI portfolio in 2012[90] was deeply inadequate—essentially one of denial and rejection of well-substantiated evidence[91]—after intervention from the World Bank's Board through the Committee on Development Effectiveness (CODE), the IFC responded and proposed reforms.

The result, in September 2013, was an IFC 'Action Plan',[92] which has since been revised and updated[93] as further criticisms have come to light. Important steps by the IFC to improve environmental and social risk management include:

- a commitment to disclose all subprojects supported through private equity funds (but not banks and other financial sector clients);
- a commitment to apply the IFC's Performance Standards to high-risk subprojects;
- more visits by IFC staff to clients and subprojects;
- streamlining of risk assessment and a new high-level committee to assess high-risk projects;
- a commitment to give environmental and social risks the same weight as financial or credit risks;
- the creation of a new vice-presidency for risk and sustainability;
- actions to improve staff culture of loan approval and downplaying risks.

Such steps are welcome and in part a result of 'new blood' at the IFC, marking an acceptance of past faults and a new commitment to put things right. In October 2014, the CAO published an update[94] to its audit, assessing IFC's reforms and acknowledging progress in several areas. The update is critical of fundamental problems with the IFC's FI model, but does welcome the IFC's acknowledgement of the importance of 'engaging with E&S [environmental and social] risk at the subclient level'; and finds that actions identified by the IFC 'have the potential to improve the quality of E&S outcomes from IFC financial intermediary investments over time'.[95]

The vital questions remain however: will the reforms suffice to protect communities from social and environmental harm? And are the cases detailed here really just isolated 'bad apples' or are they in fact just the tip of the iceberg, resulting from deeper structural flaws?

…but has the IFC done enough?

Risky business

The IFC claims that a small minority of its investments are high risk. In its Action Plan of 2013, the IFC estimates that high-risk projects comprise just 10 percent of its portfolio, with medium-risk projects at 30 percent.[96]

However, it is extremely difficult to verify the IFC's figures relating to what proportion of its FI portfolio it classifies as high risk. This is largely because there is no transparency about the majority of projects supported by the IFC's FI clients, so there can be no independent verification of its claim. Until there is full disclosure—something CSOs and communities have been pressing for—we must simply take the IFC at their word. However, given the magnitude of IFC investments in the financial sector and the failure of the IFC to track and monitor its investments, it is probable that the scale of problem projects is in fact much greater than claimed.

The IFC failed to classify the Santa Rita project as high risk despite severe conflict and repression of local indigenous communities. Photo: Asociación de Jóvenes para el Desarrollo y Rescate Social (AJODER)

Risk miscategorization

First, even when there is a commitment to disclose high-risk subprojects—for example, where investment in a private equity fund takes place under the 2012 Performance Standards—this does not happen if staff fail to identify the risk level accurately. Consider another FI case in Guatemala called the Santa Rita Hydroelectric project, which bears many similarities to the Cambalam project. In 2012, the IFC invested $15m in a New York City-based private equity fund named Latin Renewables Infrastructure Fund (LRIF), and as late as October 2014 claimed that there were 'no high-risk projects' funded by their client. Such an assessment entirely ignored or downplayed the fact that the project was situated in an indigenous area, and that severe conflicts had occurred at a similar project (Cambalam) including the declaration of a state of emergency in the same year LRIF investment went ahead. The WBG's appalling history in Guatemala was also apparently not considered: in the 1980s several hundred indigenous people were massacred during construction of the Bank supported Chixoy dam.[97] The Santa Rita project was only disclosed as high risk on the IFC's website after the case was brought to light by CSOs and following a public meeting of senior IFC officials with an indigenous leader in October 2014.[98] The Santa Rita case is now the subject of a CAO complaint, brought by affected communities. The complaint alleges lack of free, prior and informed consent—which again should have been guaranteed to indigenous communities under the

2012 Performance Standards—and a range of environmental and social issues related to IFC due diligence: project information disclosure and consultation, impacts to local water sources, displacement, indigenous people and security concerns.[99]

Internal culture and incentives

How then can stakeholders—from the Board, to CODE, to CSOs and communities—trust the ability and will of IFC staff to accurately assess and admit that subprojects are high risk? Successive CAO audits have concluded that IFC staff members do not feel empowered to raise issues of environmental and social risk or do not have sufficient guidance from policies and procedures to identify risk adequately.[100] Based on interviews with frontline staff in 2013, the CAO found that, 'E&S staff did not feel as though they could rely on support from their management in addressing contentious issues' and that they are 'afraid to make waves'.[101] In the Ficohsa case, the CAO found a disturbing practice of 'don't ask, don't tell' at work in order to obfuscate risk. E&S staff 'did not ask about Ficohsa's exposure to high risk sub-clients, and their regionally-based investment colleagues, who were aware of the issues, did not tell.'[102] Disturbingly, a 2014 internal IFC staff survey showed that only 30 percent of IFC staff believed development was their main objective. CSOs are not yet satisfied that signals from senior management—including those given in a blog by IFC Vice-President Jin-Yong Cai[103]—will reassure staff and change their culture and incentives; and are calling for an urgent Action Plan to address systemic issues.[104]

Failure to manage risk

Examples of IFC staff acknowledging and documenting risk during a due diligence process but failing to act are equally alarming. In the case of a 2010 IFC investment in South Africa-based AgriVie Agribusiness Fund,[105] for example, IFC staff conducted a field appraisal of a portfolio client project when the IFC became aware of media reports alleging forcible eviction and harassment of local communities to make way for the project. The appraisal concluded that the IFC should proceed with its investment even though the very same appraisal visit also determined that only a 'full social audit of the resettlement process' could provide sufficient factual evidence for the IFC to negate the allegations in the mass media.[106] No such audit was carried out, and the IFC proceeded with the investment.

A year into the IFC's investment, communities filed complaints with the CAO in which they claimed that the evictions had negatively impacted them by displacing them from land, destroying their private property and forcing them to forgo health, education and livelihood opportunities.[107] The complaints also voiced broader concerns about the due diligence surrounding the project, including the lack of genuine or meaningful consultation around the evictions, the lack of a baseline study or survey to accompany the process, and the lack of due diligence on the part of the IFC and the company. The complaints made specific reference to violations of IFC's Performance Standards 1, 4 and 5.[108] Complainants asked for recognition and redress for their losses as well as a compliance review of the project.

The CAO successfully facilitated a mediation process between the affected communities and the company which resulted in agreements that are currently being implemented. The communities remain far from restoring their livelihoods but the outcome of the mediation process provides a basis for community members to start to rebuild their lives. The communities have prioritized the purchase of land for resettlement and farming.[109] But what about the questions regarding the IFC's pre-investment due diligence? These were not addressed by the mediation process (as indeed it was not the objective of the mediation to do so), which raises the critical question of how the IFC is ensuring institutional learning from this case to ensure past mistakes are not repeated.

How widespread is this problem?

Beyond the issue of identifying and managing risk, a more fundamental question remains: are cases involving conflict and abuses just isolated incidents or 'bad apples', as the IFC has assured CSOs? New research[110] into IFC FI subprojects—using commercial databases—has revealed many possible further cases of conflict, environmental or social harms. The desk-based research was carried out over three months, examining the operations of IFC FI clients, where data were available. It does not represent a full investigation of the IFC's FI portfolio, given limited access to information and time constraints, and individual cases are yet to be verified on the ground. However, the research points to several potentially disturbing cases, including a mine in Vietnam which displaced thousands of local people; further dam projects in Guatemala affecting indigenous people; a number of rubber plantations in Cambodia involving forced evictions and military violence; and an Indonesian conglomerate accused of land-grabbing in West Papua (see Annex 1).

Furthermore, a review of all IFC high-risk FI investments since 2012 shows that only two, in addition to Santa Rita above, have disclosed subprojects. This represents just six percent of those investments classified FI-1—or high risk. In other words*, there is no public information about where 94 percent of the IFC's recent high-risk investments end up.*[112] Given this lack of transparency, it is a long and laborious task to try to follow the money and verify that a particular conflict or 'problem project' ultimately involves IFC funds. Such impenetrability has two grave results: accurately identifying the scale of problem projects or high-risk investments funded by the IFC is impossible, and communities whose lives are devastated by a project cannot know whether they have access to justice or redress through the CAO. This situation is simply untenable. CSOs are asking that at a minimum, the name and location of subprojects financed through all financial intermediaries be disclosed.

There is no public information about where 94 percent of the IFC's recent high-risk investments end up[111]

Fundamental rethink needed

Throughout its many exchanges and consultations with the Bank, civil society has offered a number of constructive technical suggestions to address problems in FI lending. These include third-party verification by independent auditors, public disclosure of subprojects, sufficient capacity-building for clients ahead of investment and the inclusion of binding measures in contracts with FI clients to enable sanction for wrong-doing. The IFC has responded to some of these demands to a certain extent, as noted by the CAO.[113]

However, both civil society and the CAO remain concerned that a more fundamental problem is at play in FI lending that cannot be solved through quick technical fixes alone. The cases highlighted here show a catalogue of suffering by some of the poorest and most vulnerable communities in the world. Instead of development benefits, local communities have endured displacement, loss of livelihoods, fear, violence, criminalization and repression. Women are particularly affected through loss of access to common resources on which their families depend, and in some cases sexual violence. The cases also demonstrate a systemic failure of the IFC to identify risks, and where they do become aware of problems, to take effective action to intervene. The IFC's failure to be able to account for the impacts of its clients' subprojects renders it blind to the disproportionate impacts of its investments on women.

Such risks will only escalate in coming years, given the IFC's plans to increase its lending in fragile and conflict-affected states by 50 percent[114] and the WBG's strategy of investing more in 'transformational projects' such as large infrastructure, which will presumably involve the use of the FI financing model.[115]

In its recent review of IFC reforms,[116] the CAO concluded that the IFC has yet to address the fundamental problem highlighted by the CAO's original audit—that the IFC cannot determine the full impact of its investments through financial intermediaries and therefore cannot ensure they do no harm to the communities they are mandated to support. The CAO's central finding is that the IFC 'does not have a systematic methodology for determining whether the implementation of an E&S management system actually achieves IFC's objectives of doing no harm or improving E&S outcomes on the ground.' The report adds that '[t]his means that IFC has no quantitative or qualitative basis on which to assert that its financial intermediation investments achieve such outcomes, which are a crucial part of its strategy and central to IFC's Sustainability Framework.'[117] This is deeply problematic and indicates that reform has not gone far enough, as it calls into question the very rationale for this type of investment. As this report has shown, IFC lending through financial intermediaries has in numerous cases had significant and long-term detrimental impact on already vulnerable communities. At the core, the concerns of affected communities and civil society go beyond just technical fixes, and relate to fundamental questions about the development impact rationale for the IFC's investments in financial intermediaries. Given the well-documented consequences, it remains incumbent on the IFC to demonstrate that lending through financial intermediaries in each case has positive pro-poor and sustainable developmental impact that cannot be achieved through direct investments and that these impacts outweigh the potential risks involved.

RECOMMENDATIONS

Beyond the specific technical short-term fixes that CSOs have recommended to the IFC,[118] we are calling on WBG President Jim Yong Kim and Vice-President Jin-Yong Cai to acknowledge that more fundamental reforms of the IFC's model of lending through financial intermediaries are needed, including the following:

Risk management and sanction for breaches of commitments

- Since the IFC lacks the capacity to provide adequate transparency and oversight for the current investments it makes in the financial sector, it should make fewer and better investments that it can ensure will do no harm and will adhere to the Performance Standards.
- The IFC should undertake a rigorous review of all IFC FI clients in its current portfolio and make public the number of all high-risk projects, with clear mitigation/contingency plans to address risks identified.
- In rare circumstances, high-risk FI investments may have legitimate development objectives that advance the WBG's goals, and may more effectively meet those objectives than direct investments. In such cases, the IFC should take the same level of responsibility for social and environmental risk management of high-risk subprojects as it would for direct project investments.
- However, until it reforms the current inadequate systems of risk management, the IFC should not invest in new high-risk FI projects and clients.
- The IFC should include binding measures in contracts with FI clients to enable sanction for wrong-doing. All new IFC contracts should include language requiring the suspension of IFC support and immediate refunding of investment, without prejudice or fee, and the imposition of sanctions (including financial), in the event of breach of environmental and social requirements.
- The use of third-party verification, during assessment, monitoring and supervision, would greatly enhance the ability of the IFC to identify and manage risk. At a minimum, annual third-party verification should be applied for all high-risk subprojects in FI-1 and FI-2 investments.
- The IFC should close the 'rights issue' loophole which in the HAGL/Cambodia case enabled it to provide additional investment to an FI after the introduction of the performance standards, but not be required to apply those stricter safeguards as the additional funding was considered part of an ongoing agreement.

Transparency

- The IFC should make the disclosure of all subclients and subprojects a condition of receiving IFC investment. This should apply to all FI clients, not just private equity funds. Where national laws prohibit disclosure of certain information, as much information as is legally allowed should be disclosed, with a note explaining why this was withheld.

Capacity building

- The IFC must choose clients more carefully, and in a standardized, systemic and transparent manner. Should a client be selected that has low capacity to handle social and environmental risks, capacity-building must come before investment.

Institutional reform

- To address the reform of institutional culture needed for IFC staff to be empowered to identify and manage risk, the IFC should issue an Action Plan to address widespread issues and systemic flaws in its institutional culture and incentives. This Action Plan should include specific, measurable and time-bound commitments, which are made public and accountable to the Board and stakeholders.
- In the selection, assessment, supervision and monitoring of FI clients, the IFC should strengthen IFC staff capacity in gender risk assessment for effective analysis and profiling of gender disaggregated data including risks to women, men, youth and children, and to marginalized communities including indigenous peoples.
- In developing reforms to its approach to financial sector investments, the IFC should formulate a process for independent input, participatory consultation with affected communities, and broader stakeholder engagement.

ANNEX 1

Examples of additional investments by the IFC in financial intermediaries that initial research has indicated may present risks to communities.

Hidro Xacbal and other hydropower dams (Guatemala): the IFC is exposed to the Hidro Xacbal dam, which was built on indigenous peoples' land who claim not to have been properly compensated.[119] The IFC is also exposed to the Hidro Norte dam through investment in the Central American Mezzanine Infrastructure Fund and the Pojom I and Pojom II dams, both funded through the Corporación Interamericana para el Financiamiento de Infraestructura.[120]

Rubber plantations (Cambodia and Laos): the IFC may be exposed to a number of large rubber plantations in Cambodia and Laos that have allegedly involved forced evictions and violence against villagers.[121]

Medco Power Indonesia (Indonesia): the IFC may be exposed to an Indonesian conglomerate involved in large land concessions that local civil society say have violated the rights of indigenous people.[122]

Masan Group (Vietnam): the IFC is exposed to one of the largest open-pit tungsten mines in the world, which the World Bank estimated would affect 7,464 villagers.[123]

Grupo Pellas (Nicaragua): the IFC is exposed to a sugar producer with plantations in Guatemala that have resulted in the deaths, injury, and eviction of indigenous people.[124]

EDL Generation (Laos): the IFC is exposed to a subsidiary of the Lao state-run electricity company that operates seven hydroelectric dams.[125]

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