



Amnesty International's written statement for the 24th session of the Human Rights Council (9 to 27 September 2013)

AI index: IOR 41/020/2013

Date: 16 September 2013

The World Bank and other International Financial Institutions must uphold human rights in all activities they support

The decisions, policies and projects promoted by international financial institutions (IFIs) have significant and often far-reaching impacts on human rights. While the impacts of these institutions can be positive - for example, contributing to poverty reduction - too often the impact is negative, with poor and marginalised individuals and communities suffering the most negative impacts.¹ This is because these institutions frequently invest in industries, such as energy and resource extraction and projects, such as large-scale infrastructure development, associated with environmental damage and human rights abuses, like forced evictions. Also the projects that they support are frequently carried out in countries that may face significant challenges in ensuring the effective protection of human rights.

The organizations submitting this joint statement urge the United Nations Human Rights Council to increase its focus on the human rights impact of IFIs, including multilateral development banks, such as the World Bank.

While the obligation for the protection of human rights lies with the state, IFIs and their member states also have responsibilities to ensure that activities they support do not cause, or contribute to, human rights abuses by putting in place adequate safeguards. Many IFIs regard human rights as a political issue for states, and refuse to accept that they have, at a minimum, a responsibility to ensure respect for human rights in the activities they support. This is despite the fact that many IFIs are established and controlled by states, which have legal obligations under international and regional (and, in many cases, national) law to respect, protect and fulfill human rights. The UN Committee on Economic, Social and Cultural Rights has consistently stated that the obligations of states that are parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR) extend to state action as part of inter-governmental organizations,

¹ Example: Serbia Gazela and Sava Bridges projects in Serbia. Both projects funded by the European Investment Bank and the European Bank for Reconstruction and Development

Sources: Serbia: Home is more than a roof over your head: Roma denied adequate housing in Serbia

<http://www.amnesty.org/en/library/info/EUR70/001/2011/en>

Example: Chixoy Hydroelectric Power Project in Guatemala funded by the World Bank and the Inter-American Development Bank

Sources: Inter-American Court of Human Rights' ruling in the Rio Negro Massacre

(http://www.corteidh.or.cr/docs/casos/articulos/seriec_250_ing.pdf) & Report assessing project impacts acknowledged by the banks (<http://adivima.org.gt/archivos/Informe%20de%20identificacion%20y%20verificacion%20%20aprobado%20-final-.pdf>)

See also, Human Rights Watch, "Abuse-Free Development: How the World Bank Should Safeguard Against Human Rights Violations"

including international financial institutions. In fact under the UN Charter and other instruments such as the ICESCR, states have the obligation to act individually and jointly to respect and defend human rights, including through international cooperation and assistance.

IFIs are large and powerful organizations, and the harm that can result from their refusal to meet their human rights responsibilities can be significant. Support provided without taking into account or requiring adequate human rights protections can legitimise and foster violations by states and abuses by non-state actors. This is an issue that the UN Human Rights Council must not continue to ignore.

All IFIs should implement human rights due diligence measures, including human rights impact assessments and human rights safeguard policies, which are consistent with international human rights laws and standards. Due diligence should inform not only project design, but also project implementation and evaluation. At the same time, IFIs and the activities they support should be carefully monitored to assess their ongoing impact on human rights, as well as the presence of effective procedures for ensuring accountability for human rights violations.

The impact of IFIs on human rights is a matter of global concern. In June 2012, during the Rio+20 Conference on Sustainable Development, twenty-one special procedures mandate-holders stressed the need to ensure a unified accountability mechanism at the UN to monitor progress in achieving the sustainable development goals from a human rights viewpoint.² Subsequently, in April 2013, four special procedures mandate-holders asked the World Bank to adopt human rights standards within the review of its Environmental and Social Safeguard Policies.³ Most recently, in June 2013, the Vienna+20 Conference on Human Rights called upon the UN and its stakeholders to address the responsibility of international intergovernmental organizations engaged in human rights violations.⁴

Consequently, we are now urging the Human Rights Council to take concerted and expeditious action to elaborate and reinforce the human rights responsibilities of IFIs. While the role of IFIs has been addressed, to a limited degree, in international documents such as the Millennium Declaration, the Declaration on the Right to Development and the Declaration on the Rights of Indigenous Peoples, greater focus and clarity is required to ensure that IFIs respect and protect human rights in their operations and are held accountable when they fail to do so..

Important work, which can contribute to clarifying the human rights responsibilities of the World Bank and other multilateral development banks, has already been completed. For instance, the 2011 UN International Law Commission's "*Draft Articles on Responsibility of International Organizations*" confirms that intergovernmental organizations, such as IFIs, are subjects of international law, and as such they have international law obligations that they must

² *If Rio+20 Is To Deliver, Accountability Must Be At Its Heart*, Open Letter from Special Procedures mandate-holders to States negotiating the Outcome Document of the Rio+20 Summit (June 2012), <http://www.ohchr.org/EN/HRBodies/SP/Pages/OpenLetterRio20.aspx>.

³ *UN Experts Urge World Bank to Adopt Human Rights Standards on the Eve of Gathering in Washington*, Geneva, April 18, 2013, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13248&LangID=E>.

⁴ See *Vienna +20: Advancing the Protection of Human Rights* outcome document (available at <http://www.cesr.org/downloads/Vienna20%20Outcome%20Document.pdf>) Recommendations on *The Rule of Law: The Right to an Effective Remedy for Victims of Human Rights Violations (a) Within the UN system* at p.3

comply with.⁵ The Draft Articles also point out the international responsibility of both the organizations and the member states concerned.⁶

In addition, the 2012 “*Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights*” articulate the human rights obligations of states when acting jointly through an intergovernmental organization,⁷ as in the case of IFIs. These Principles have been endorsed by many international law experts, including current and former members of UN human rights treaty bodies, regional human rights bodies, and former and current independent experts of the UN Human Rights Council.⁸

Accordingly, we urge that a panel discussion on this issue be held at a future session of the Council. The focus of the panel should be the connection between IFIs’ activities and their responsibility to ensure that human rights are respected and protected, and the options available to states and to the Human Rights Council to address violations. The objective would be to facilitate constructive dialogue on these issues.

Recommendations

It is important that the Human Rights Council’s authority be brought to bear on these issues. The current global discourse around the post-2015 development goals offers an important opportunity to ensure that global governance and sustainable development increasingly incorporate a human rights law perspective. Post-2015 development goals must also take into account the human rights responsibilities of IFIs given their significant impact on development and potential for addressing poverty concerns.

Accordingly we urge the UN HR Council that: a panel discussion on this issue be held at a future session of the Council. The focus of the panel should be the connection between IFIs’ activities and their responsibility to ensure that human rights are respected and protected, and the options available to states and to the Human Rights Council to address violations. The objective would be to facilitate constructive dialogue on these issues.

⁵ U.N. Int’ L. Comm., *2011 Draft Articles on the Responsibility of International Organizations*, U.N. Doc. A/66/10 (2011).

⁶ *Ibid.*, Art. 1(1) (asserting that the “articles apply to the international responsibility of an international organization for an internationally wrongful act”). Art. 1(2) (stating that the articles “also apply to the international responsibility of a State for an internationally wrongful act in connection with the conduct of an international organization”).

⁷ Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights (Febr. 29, 2012), http://www.fian.org/fileadmin/media/publications/2012.02.29_-_Maastricht_Principles_on_Extraterritorial_Obligations.pdf

⁸ Indian Law Resource Center, *Principles of International Law for REDD+: The Rights of Indigenous Peoples and the Legal Obligations of REDD+ Actors* (May 2012), http://www.indianlaw.org/sites/default/files/Indian%20Law%20Resource%20Center_REDD+%20Principles.pdf.