



Submission to the Working Group on the issue of human rights and transnational corporations and other business enterprises: Development Finance Institutions and Human Rights

February 2023

1. This submission is drafted by the Uganda Consortium on Corporate Accountability. The consortium works to promote corporate accountability and respect for human rights by businesses. This submission responds to question 5 under the access to remedy part of the questionnaire. This submission highlights concerns about the African Development Bank, a regional DFI, and its funding in the area of agriculture. The submission seeks to highlight the significant challenges observed with regard to ensuring access to an effective remedy for victims of human rights abuses affected by DFI-funded projects.

Background on AfDB Funding in agriculture in Uganda: a case of Wadelai irrigation scheme project

2. Wadelai Irrigation Project is one of the four irrigation schemes under the Farm Income Enhancement and Forestry Conservation Project (FIEFOC-2) financed by the African Development Bank, supported by the Nordic Development Fund, and Implemented in Uganda. The project aims at contributing to the improvement of farm incomes, rural livelihoods, food security, climate resilience, sustainable natural resources management, and agricultural enterprise development. Between the two financiers, it was agreed that the safeguard policies of AfDB would guide the project's implementation. Yet, human rights requirements have not often been integrated into substantive, meaningful ways in DFIs' safeguard policies.
3. On 16th June 2011, the United Nations (UN) Human Rights Council endorsed the UN Guiding Principles on Business and Human Rights (UNGPs) through its Resolution 17/4. These UNGPs are a set of guidelines that apply to businesses and governments and require them to respect and promote human rights in the context of business activities. The UNGPs are built on three pillars: the legal duty of governments to protect individuals from the negative human rights impacts of business activities; the responsibility of business enterprises to respect human rights; and the need to ensure access to remedies for victims of the negative human rights impacts of business activities.
4. According to the UNGPs, DFIs, like the AfDB, have a responsibility 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. Further, DFIs, such as the AfDB, have a pivotal role in providing access to remedies to individuals and communities that are negatively affected like the Paten clan¹ in Uganda by DFI-funded projects.

¹ <https://ucca-uganda.org/666/after-attacks-a-community-in-uganda-unites-to-fight-for-their-land/>

Challenges faced by the host community of this AfDB-funded project

5. The Wadelai Irrigation Scheme is one of the four irrigation schemes under the African Development Bank's [Farm Income Enhancement and Forestry Conservation Project \(FIEFOC-2\)](#). The project intends to improve households' income, food security, and climate resilience through sustainable natural resources management and agricultural enterprise development in the five districts of Nebbi, Oyam, Butaleja, Kween and Kasese. The overall cost of this project is approximately USD 91.7 million, financed by the African Development Bank (USD 76.7 million), the Nordic Development Fund (USD 5.9 million) and the Government of Uganda (USD 9.1 million). The irrigation schemes intend to benefit 31,000 households while the natural resource management component will reportedly impact 300,000 households, primarily farmers cultivating rice, cotton, and horticultural crops. The agribusiness component purports to create about 1,000 alternative livelihood opportunities and equip 1,400 people with business skills through training.
6. One of the concerns raised by the affected communities, particularly the Paten clan, was that the acreage of land that the project sought to acquire for its agribusiness component left limited land for their own use. The community had consented to give the project 365 acres, while the surveyors indicated that the 365 acres were in fact hectares. This gap in information created mistrust of the project within the community. The state responded with the use of the military to combat the descent from the community.
This impacted the rights of the Project Affected Persons requiring the adherence to the safeguard policies of the financier, the African Development Bank, particularly operational safeguards 1 and 2.
7. Operational safeguard 1 sets out the Bank's overarching requirements for borrowers or clients to identify, assess, and manage the potential environmental and social risks and impacts of the project. The objective of this is to mainstream environmental and social considerations. This implies safeguarding stakeholders' effective participation during the consultation process so that affected communities and stakeholders have timely access to information and are consulted meaningfully about issues that may affect them. The safeguard also provides for the establishment of a credible, independent, and empowered local grievance mechanism to receive, facilitate and follow up on concerns about the social performance of the project.
8. Operational safeguard 2 ensures that in case the Project Affected Persons do not have land titles, cadastral surveys are carried out to establish the basis for compensation, and it may be necessary to establish procedures to recognize claims to land including claims that derive from customary law and traditional usage. From the ongoing developments, there was no grievance mechanism in place to handle these issues and if it was in existence, it was neither performing nor empowered to perform its duties. The non-adherence to safeguard policies by DFIs such as the African Development Bank leaves host communities to projects being funded by such DFIs with negative impacts without effective remedies.

DFIs have a responsibility to respect human rights

9. DFIs play a critical role in directly financing investments needed for the realization of the SDGs and human rights. In order for DFIs to effectively contribute to sustainable development, it is crucial that they take necessary measures to avoid negative impacts on human rights as defined in international instruments and compatible national laws. In this regard, the [2030 Agenda for](#)

[Sustainable Development](#) and the [Addis Ababa Action Agenda](#) of the Third International Conference on Financing for Development (“AAAA”) are grounded explicitly in international human rights law. They frame the contributions of the business sector to sustainable development in terms of its responsibility to respect relevant international standards, including the UN Guiding Principles on Business and Human Rights.

10. Below are a few reasons why DFIs should adopt human rights standards, accompanied by recommendations:

a. Legal Obligations

As institutions made up of governments, no DFI can argue that it is permitted to violate human rights. When making decisions through DFIs’, member states must comply with their obligations under international law, regardless of whether they are borrowers or donors.

As borrowers: When a state receives a loan from a DFI, it must implement the project in a manner consistent with its human rights obligations. If the DFI provides a loan to a company, the state must ensure that it protects the project-affected community from human rights abuses that may be committed by the company.

As donors: States’ human rights obligations do not stop at their borders. They have obligations not to finance the violation of human rights in other countries and not to obstruct other countries’ ability to meet their human rights obligations towards their people.

As decision-makers: DFI governing bodies – often made up of national finance ministers – are responsible for approving the projects financed and the policies governing those projects. States acting through DFIs must ensure they do not violate the rights of those outside their own territories when taking decisions about Bank policies or activities.

b. Development Effectiveness

The missions of the DFIs are generally to help alleviate poverty and support sustainable development. People living in poverty are often the most marginalized and vulnerable people in our societies. A human rights framework, with its emphasis on the principles of equality and non-discrimination, provides a focus on protecting the rights of the very people most in need. A human rights framework also prioritizes the participation of those affected by development projects or policies, which ensures that the project or policy better meets their needs.

On the other hand, failure to ensure respect for human rights in development leads to greater poverty and inequality. Projects which fail to anticipate and address human rights issues are more likely to be plagued by social conflict and fall short of their objectives.

c. Harmonization and Policy Coherence

Incorporating human rights standards in DFI policies improves consistency and coordination between different institutions and government agencies. DFI policies vary greatly from one institution to another. Harmonizing DFI policies with human rights standards helps to avoid conflicting requirements, prevents activities that could undermine countries’ international obligations, and supports countries’ domestic development agendas.

Ministries of Finance also have an obligation to respect human rights and given that they have the responsibility to represent their interactions with DFIs they should ensure that all policies respect and uphold Human Rights. Thus, they should ensure that DFI policies respect and uphold human rights and can prevent the perceived false trade-off between development and human rights agendas.