Learning from 10 years of campaigning on financial intermediary lending at the International Finance Corporation

Women affected by the IFC-funded India Infrastructure Fund coal power project, GMR Kamalanga Energy. (Photo: Joe Athialy)

This report summarizes the discussions of civil society representatives on October 15th of 2019 during a workshop organized by Oxfam, Recourse, Inclusive Development International, Centre for Financial Accountability (India), and the Philippines Movement for Climate Justice.

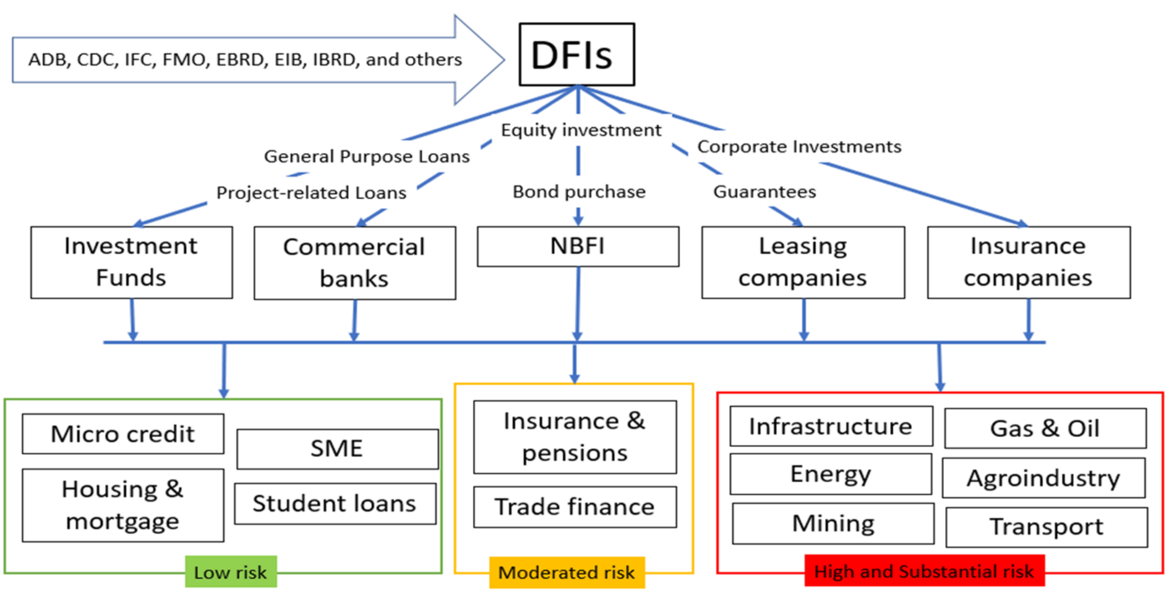
INTRODUCTION: THE NEED TO ANALYZE OUR WORK

Civil society organizations from around the world have been campaigning and advocating for a more responsible, human rights-oriented, and sustainable development finance model.

Multilateral Development Banks (MDBs) lend money to governments and private actors in order to pursue determined development goals. Many - if not all of them - **claim to have a clear purpose: poverty reduction and sustainable development**.

The World Bank (WB) Group's mission has two goals: to 'end poverty' and to create 'shared prosperity. The IFC is the private sector lending arm of the WB. Over half of the IFC's investments are channeled through Financial Intermediaries - third parties such as private equity funds or commercial banks. This investment model brings with it a host of increased risks for local communities and the environment. This is an investment trend at both IFC and other Development Finance Institutions. The lack of transparency around this form of lending has made it much more difficult to monitor end uses of these financial flows via various financial actors and to link the IFC with the projects supported by FI clients.

What are financial intermediaries?



IFC 2019 - $5.6 billion in financial intermediary lending = 62.9% of IFC portfolio

Since 2010 (fiscal year), IFC has invested $49.3 billion in financial intermediaries.

52% of CDC Group, 45% of EIB, and about 40% of FMO

FI lending has increased during the past 10 years to the point that it represents a significant proportion of some DFIs' total investment portfolio. IFC alone has over 60% of its entire portfolio invested in financial intermediaries. This escalating trend has been monitored by civil society, and over the past decade, organizations have been researching and advocating to make it more accountable, ensuring environmental and social standards are fully applied and communities are protected. Campaigners have called this hands-off form of lending 'outsourcing development', since the DFI delegates responsibility for assessing and managing social and environmental impacts of high-risk sub-projects - in sectors such as extractives, infrastructure, energy, agrobusiness among others - to FI clients, with often disastrous results. NGOs have linked FI investments to cases involving forced evictions and other human rights abuses, forest destruction, environmental pollution disasters and destructive coal mines and powerplants.

The global financial crisis of 2008 prompted this new trend of creating a larger role for the private sector in development finance including investing through FIs. DFIs channeled investments through private actors in order to stabilize the global economic and financial market and since then, financial intermediary lending has increased year on year. Leading the pack is the International Finance Corporation, which invests over half of its total portfolio in FIs; though it's a growing trend among other DFIs also – with both EBRD and EIB investing nearly half through FIs, AIIB 15%, and bilateral DFIs an increasing portion of their total lending.

Such reallocation of resources from direct financing to indirect financing has taken place without adequate systemic and structural policies and practices needed to ensure effective transparency, accountability, and development impact as well as effective implementation of environmental and social standards. CSOs have been calling attention to this issue and advocating for reforms for the last 10 years. Directing efforts towards the IFC in particular, NGOs have aimed to identify and challenge the systemic fault-lines that result in highly risky sub-projects, while trying to achieve redress for communities by supporting them in filing cases to the CAO.

As a result of this pressure, in recent years, the IFC has undertaken significant reforms to try to address some of these problems, including improving monitoring and supervision, changing risk definitions, 'ring-fencing' FI loans for targeted development purposes. In 2019 IFC has developed a Green Equity Approach aimed at encouraging equity clients to phase out coal financing. And in early 2020 as part of IFC's General Capital Increase they have finally committed to disclose basic project information for their higher risk subproject in their FI portfolio, including moderate-risk projects targeting climate related investments of its FI clients. These are some hard-fought-for wins that have been achieved as a result of relentless pressure.

A decade into the campaign, it is time to reflect on what has been achieved and how; and what remains to be done. This report summarizes that discussion among numerous civil society organizations. With this report we aim to record the reflections and assessment of a joint campaign on financial intermediaries, identifying what worked and what did not work, and drawing some lessons to help us and others to continue efforts for more systematic reforms to FI lending in the future and in other DFIs, to improve support to affected communities by identifying factors that have worked well to help communities access to remedy, and to close policy gaps.

A CHRONOLOGY OF 10 YEARS OF ADVOCACY AND RESEARCH

View the PowerPoint which links to this section of the report.

Over the decade, NGOs from around the world have been calling attention to this issue, campaigning for change and filing cases to protect the rights of affected communities. Directing efforts towards the IFC in particular, NGOs have aimed to identify and challenge the systemic fault-lines that result in highly risky sub-projects, while trying to achieve redress for communities by helping them to file cases to the CAO.

What follows is a chronology of the research conducted by a variety of CSOs around the world, focusing on the issue of financial intermediary lending.

Early on, CSOs' strategy to challenge this model can be summarized as follows: **if we cannot stop the current trend towards private sector financing, we need to both push for better standards, and present alternative models of private sector support that might deliver more effectively for development.**

CSOs' research on the use and implications of financial intermediaries by DFIs started back in **2010** with two reports:

In 2010: Action Aid, Bretton Woods Project, Christian Aid, Eurodad, Campagna per la Riforma della Banco Mondiale, Third World Network' **Bottom Lines, Better lives** found**:**

"The rapid growth of **'arms-length' financial sector investments** through financial intermediaries such as private banks or private equity firms is a particular cause for concern. The failure of MDBs to clearly define the development objectives of their investments is particularly worrying in this case, where operational decisions are delegated to the financial intermediary."

"MDBs should rethink their approach to financial intermediaries, to support strong, locally owned institutions that are focussed on responsibly providing financial services to the poor and supporting sustainable development. There should be clearly defined requirements that financial intermediaries must meet in order to be eligible for multilateral financing. These include having clear mandates with a focus on sustainable development and finance for the poor, as well as strong social and environmental safeguards, and acting as responsible taxpayers."

Also in 2010, in '**Out of Sight Out of Mind**', **Bretton Woods Project and Ulu Foundation** question what is the 'right kind' of FI and recommend:

A **Focus on outcomes** by developing a clear strategy and framework that links to national plans. An approach that seeks to support dynamic and responsible financial intermediaries should start by avoiding those with potentially negative impacts or irresponsible practices. This means that:

- Those with portfolios including any lending with high risks of negative social and environmental impacts should not receive IFC support.
- No IFC funding should go to financial intermediaries domiciled or with majority owners domiciled in secrecy jurisdictions.
- FI investments should meet standards currently applied to IFC microenterprise projects, banning activities that "impinge on the lands [...] owned by Indigenous Peoples without full documented consent of such peoples"

Support small businesses by selecting financial intermediaries that support microenterprises and small and medium enterprises.

Insist on high transparency standards including the public disclosure of environmental, social and governance language

Ensure proper monitoring and oversight by, among other things, including binding language in all agreements and contracts specifying the manner by which the IFC may exercise veto power over investments or partners and may divest from an investment, without prejudice or fee, in the case of client (project or subproject) violation of IFC policy, law, or treaty obligations.

In 2011 OXFAM launched two reports, '**LAND AND POWER**' **and** '**The New Forest company and its Uganda Plantations**'**.** The reports exposed the increasing trend of land grabbing and its negative effects on human rights and communities' livelihoods. The report highlights specific cases in Uganda, South Sudan, Indonesia, Honduras and Guatemala.

At national level, the reports document clear exclusion and discrimination towards the poorest and marginalized communities. Communities are systematically not informed and not included in decision making about their lands and livelihoods. States overlook their human rights obligations, and do not provide any protection or security to the affected people.

At the international level, OXFAM's report focuses on the investors' role and lack of clear standards for FI financing. The report points to an evident failure of international standards to safeguard communities from the devastating impacts of land grabs.

2011 was also the year when the first two complaint cases on FIs were submitted to the CAO. The first case was the *GMR Kamalanga Coal Energy project in Odisha state in India*. IFC made an equity investment in India Infrastructure Fund, a private equity fund bankrolling the Kamalanga Coal Energy project. The complainants alleged serious human rights violations, lack of transparency and disclosure of information about the project, inadequate community engagement and environmental pollution. This case brought up several questions regarding IFC's due diligence and accountability framework when using financial intermediaries. The CAO found several violations of IFC's policies. **The CAO report found the IFC failed to comply with its own standards on due diligence, management of environmental and social risks, supervision and disclosure.**

The second case filed to the CAO regarded timber plantations in two districts in Uganda, documented in Oxfam's case study "New Forest Company and its Uganda Plantations". For this project two complaints were submitted after the communities supported by Oxfam were able to 'follow the money back up' to the IFC. The IFC invested money in a South African private equity agribusiness fund whose portfolio included the New Forests Company (NFC). Communities in two different districts were evicted, and around 20.000 people were forcibly displaced from their homes and didn't receive any compensation. Both c**ases went through a mediation process facilitated by CAO, resulting in remedies for the affected communities. Despite the initial wishes of the complainants, the case did not the proceed to compliance review.**

In 2012, the IFC reviewed and approved a new set of Performance Standards and Interpretation Note on Financial Intermediaries. There were three major changes that improved the standards. **1)** The new policy intended to pay more attention to communities and their right to participation including FPIC for indigenous peoples. **2)** Increased commitment to disclosure. **3)** Increased IFC's social and environmental due diligence. However, it also marked the point where IFC *effectively delegated oversight over and responsibility for environmental and social management to its client* – the beginning of the trend of 'outsourcing development'.

The PS review did not respond to NGO calls for the standards to be "fully consistent with international human rights standards" or for the standards to apply to all FI sub-projects

In 2012, Oxfam's **'RISKY BUSINESS' report** highlighted the increasing trend of IFC lending through FIs, and the problems related to FI investing, especially regarding the application of social and environmental standards in land acquisition.

The report concluded: *"The selection of FIs should be prioritized towards institutions that have substantial local ownership and are equipped to make investments that are in line with the DFI's development objectives and approach."*

In 2012, Eurodad published its report **'CASHING IN ON CLIMATE CHANGE?'** which argued that while supporting private-sector investments can have a useful, if limited, multiplier effect on public funds, there are questions around claims made about their leveraging potential and reveals that it is often impossible to know where the public money ends up.

The report concludes: "Leveraging money through financial intermediaries cannot be used as a substitute for directing sufficient public resources directly to the poorest."

And recommends that DFIs:

- Ensure financial intermediaries that receive public support are transparent and accountable to local stakeholders;
- Improve reporting so that money channelled through financial intermediaries can be better tracked and coordinated;
- Increase overall transparency as a means to improve monitoring and accountability to local stakeholders;
- Implement effective systems to ensure adherence to international social, environmental and human rights standards;

- Observe high corporate social responsibility standards and do not engage in tax dodging practices.

In 2013 **CAO published a highly critical audit report on IFC's financial intermediaries lending** as a result of growing concerns around the increase in financial markets investments in IFC's portfolio.

Based on an analysis of over 60 FI investments, CAO finds "IFC has, through its banking investments, an unanalysed and unquantified exposure to projects with potential significant adverse environmental and social impacts. Absent disclosure of information related to these projects, this exposure is also effectively secret and thus divorced from systems which are designed to ensure that IFC, and its clients are accountable to project affected people for delivery on their environmental and social commitments."

Based on the audit's findings, an international coalition of NGOs write to World Bank President JY Kim, "The CAO audit findings serve as an indictment of the entire premise on which development outcome assessment and social and environmental safeguards are applied to the IFC's large investments in the financial sector."

In 2014, Bretton Wood Project published its report 'FOLLOW THE MONEY' which finds *"Just five years after a major international financial crisis the financial sector is now the largest beneficiary of World Bank Group investment."*

"The pursuit of financial deepening combined with the use of intermediated finance can have profound implications for human rights, social development and environmental sustainability […] The 'black box' nature of IFC's financial sector investments raises many concerns".

In 2014: Program for Social Action/The Research Collective India publishes '**Down the Rabbit Hole'** which examines the FI model's use in India.

Kavaljit Singh calls it "a timely and intrepid assessment of the informal private-public partnership in the Indian banking sector that is detrimental not only to the stability of the financial system but, more importantly, to the public interest and the environment."

In 2014, following a report by Global witness called '**Rubber Barons**', indigenous communities in Cambodia supported by Equitable Cambodia, Highlanders Association and Inclusive Development International filed a case to the CAO about the **IFC's investment in Dragon Capital / VEIL private equity fund. The fund owned shares in one of Vietnam's largest private companies, HAGL, which held over 50,000 hectares in concessions for largescale agricultural plantations in Cambodia and Laos.**

These concessions overlapped with the customary lands of more than a dozen indigenous communities in Cambodia. Communities affected by the company's plantations in both countries suffered extensive losses and damages, amounting to serious human rights violations.

In 2015, Oxfam and 11 partners[1] published a new report called **'THE SUFFERING OF OTHERS'.** This report marked a new strategy: to put a human face on a highly technical issue, focusing on people's suffering as a result of FI investments; by telling the stories of people from Cambodia, Laos, Honduras, India, Uganda and Guatemala.

The report demonstrates that cases involving severe environmental impacts and human rights abuses are not limited by geography or sector, but that the problems with FI lending are systemic. It highlights significant concerns related to the IFC's capacity and systems to manage risk and argues that the systemic problems presented will not be solved through technical solutions, but by rethinking the whole finance model.

The report concludes: "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."

In 2016, Oxfam and Inclusive Development International published '**OWNING THE OUTCOMES'.** The report challenges each of the IFC's main arguments it puts forward to avoid responsibility for the damages caused by its FIs in terms of limited responsibility, lack of ability to require sub-project information disclosure, ring-fencing and targeted loans, clients' pre-existing portfolios, and sustainability framework.

It concludes: "the evidence continues to grow that this private sector arm of the World Bank Group has little control over how a great deal of this money is spent. This lack of accountability is having devastating impacts on many poor communities. The IFC must start taking more responsibility for these outcomes and ensure that its investments are benefitting, rather than harming people and the environment."

By challenging IFC's arguments, the report also puts forward a set of recommendations to IFC including: significantly strengthen due diligence and supervision at the sub-client level; require FI clients to adopt a human rights policy consistent with the UN Guiding Principles on Business and Human Rights; disclose financial relationships between FI clients and higher-risk sub-clients; make remediation of harms in a prospective FI client's existing portfolio a condition for IFC's investment; actively ensure that sub-client affected communities have access to the CAO; and scale down its FI portfolio to a level commensurate with its own capacity to ensure FI sub-projects comply with the Performance Standards.

In 2016, Inclusive Development International, BIC Europe, Accountability Counsel, Urgewald and 11.11.11 launched **'OUTSOURCING DEVELOPMENT',** with a series of reports exposing harmful projects linked to IFC's FI investments. The first two reports **'Disaster for Us and the**

[1] Oxfam, Global Witness, Equitable Cambodia, Inclusive Development International, PSA, NISGUA, BIC, Brenton Woods Project, Urgewald, COFADEH, Madre Tierra, and Madre Selva

Planet' and '**Bankrolling India's Dirty Dozen**' demonstrate how the IFC has funneled billions of dollars into some of most harmful companies and projects in the world through its financial intermediary lending. It shows that the problem is systemic, and not limited to just a few cases.

These two reports were the first of a series of reports that expose some of IFC's most harmful investments channeled through FIs. One of the issues highlighted by the series is the coal boom in India and the Philippines financed via FIs.

In 2017, two more reports in the Outsourcing Development series were published: '**RECKLESS DEVELOPMENT**', '**UNJUST ENRICHMENT**' examining the negative impacts of IFC's financial intermediaries investments in Southeast Asia and Africa.

The reports show how the IFC's FI investments fail to promote sustainable development, but rather support environmentally and socially harmful projects such as hydropower plants, coal mines, and concessions for agribusiness plantations.

In 2017, Inclusive Development International, Philippines Movement for Climate Justice and BIC Europe file a mass climate action to CAO on IFC's FI links to coal plants in the Philippines.

In 2017 Inclusive Development International co-published '**TIME TO COME CLEAN**' with BIC Europe, focusing on IFC FI support to the Rampal coal power plant in Bangladesh.

In 2017 The IFC announces a sharp reduction in high risk lending and commitments to transparency. The new IFC CEO, Philippe le Houérou announces:

"we will reduce IFC's own exposure to higher risk FI activity, and apply greater selectivity to these types of investments, including equity investments. This means reducing the number of general purpose loans to banks, which can be used to support any client sub-projects in any sector, and continuing to increase the number of targeted loans, which can be 'ring-fenced' to support particular efforts that, for instance, help women-owned SMEs or mitigate climate change."

In 2018, '**COMING OUT OF THE DARK**' **was published by Bank Information Center Europe and SOMO**. The report makes several recommendations on how the IFC could turn its tentative and promising steps to improve its FI lending into a radical transformation, to help shift FI lending away from fossil fuels and to ensure no harm to people and the environment.

The report puts forward a set of recommendations for IFC in order to guarantee that its investments do not support fossil fuels; and highlights the need to improve disclosure, monitoring, supervision and thorough analysis of clients' portfolios.

In 2018, Inclusive Development International, BIC Europe and the Philippine Movement for Climate Justice published '**BROKEN PROMISES**' highlighting the unfulfilled commitments of the World Bank in relation to climate change. The report finds that despite some commitments and progress at the policy level, the IFC has continued backing financial intermediaries investing in coal operations in the Philippines. The report explains in detail the negative impacts and brings to light financial links that has IFC exposed to 19 coal projects in the Philippines.

In 2018, OXFAM published a new report on transparency of financial intermediary lending at DFIs. The **'OPEN BOOKS'** publication examined what policies and initiatives exist among DFIs and the banking sector to promote project related disclosure of information. The document stresses the idea that financial intermediary lending has lowered the bar in regard to transparency and information disclosure standards.

The reports states that transparency standards in FI investments has fallen short and do not comply with best practice at the international level. *"This inconsistent and contradictory state of disclosure policies and practice between direct and indirect investments, as well as within the DFI's financial intermediaries lending, undermines stakeholders and communities' rights to information and accountability when projects negatively impact their lands and livelihoods."*

The report proposes a framework to move forward by proposing a major institutional change and a reform agenda that puts transparency at the core.

In 2019, Inclusive Development International and BIC Europe publish '**DIGGING DEEPER**', examining how the World Bank Group is quietly bankrolling some of Indonesia's most destructive coal mining companies, despite instituting a virtual ban on coal financing in 2013. The International Finance Corporation (IFC), the World Bank's private-sector arm, has in recent years provided hundreds of millions of dollars to client banks and private equity funds that have on-lent the money with limited oversight in Indonesia, including to the country's largest coal producer, Bumi Resources, and other major players in the industry.

In early 2019, in response to CSO research and advocacy and the Philippines coal complaint, the IFC unveiled a draft plan, called the Green Equity Strategy, designed to move its client banks away from financing coal and toward renewable energy. Digging Deeper examines how IFC's preliminary Green Equity commitments would affect the IFC's coal exposure in places like Indonesia.

REVIEWING SOME OF THE MOST IMPORTANT FI CAO CASES:

In order to assess what has worked and what hasn't in CSOs initiatives and campaigns, the workshop discussed in detail some of the 17 cases filed to the Compliance Advisor Ombudsman in the past decade, supported by organizations and allies to help bring remedy for communities. Key aspects discussed in this session were: What where the issues raised? What were the challenges? How were the financial links exposed? Which strategies did CSOs use in bringing the cases? How did IFC and CAO respond and why? Did communities receive remedy and justice? How has case work helped in holding the IFC accountable? Has the case work helped to achieve systemic reforms?

1. INDIA KAMALANGA CASE: COMMUNITIES VS. IDFC

In 2011 the first complaint case on FIs was submitted to the CAO, concerning the GMR Kamalanga Coal Energy project in Odisha state in India. IFC made an equity investment in India Infrastructure Fund, a private equity fund bankrolling the Kamalanga Coal Energy project. The complainants alleged serious human rights violations, lack of transparency and disclosure of information about the project, inadequate community engagement, and environmental pollution. This case brought up several questions regarding IFC's due diligence and accountability when using financial intermediaries. The CAO found several violations of IFC's policies. **The CAO report found the IFC failed to comply with its own standards on due diligence, management of environmental and social risks, supervision and disclosure.**

The Center for Financial Accountability in India did research for over one year to follow the money and find that IFC was exposed to the project through an FI. One of the actions that worked while preparing the case, was the thorough documentation of impacts and problems on the ground. Engaging the communities in the whole process was fundamental, and an especially important element was to manage the communities' expectations of what is possible to get through the process. It was critical for organizing communities to bring the people together and maintain unity. During the initial engagement process with CAO, communities agreed to a mediation process instead of a compliance review investigation. It was important and helpful for communities that CAO carried out several workshops to explain the process over the course of a year.

The CAO brought both the communities and the company together for the mediation process. The mediation failed when the company walked away, and the communities ended up with nothing. The case then proceeded to a compliance investigation. CAO's compliance report highlighted the failure of IFC's due diligence and monitoring of the project including IFC's failure to bring the client into compliance with its standards. The IFC objected strongly to the CAO's findings. IFC developed a remedial action plan, but it did not effectively offer remedy actions to address the harms suffered by the community and its proposals for action were not developed in consultation with the affected communities.

Even though the CAO report was good and supported the allegations made by the affected communities that IFC had breached its standards, ultimately, it came out late hampering its potential usefulness. When people suffer and struggle, usually they take what is offered even though that is usually not enough to remedy the harms they have suffered. The take-outs from this experience show that there is a system failure and a complete lack of oversight and project monitoring by IFC.

2. GUINEA KINTINIAN CASE: COMMUNITIES VS. NEDBANK/ANGLOGOLD ASHANTI

In this case, IFC had an investment in Nedbank, one of the leading South African banking groups. In turn, Nedbank had invested in AngloGold Ashanti which is operating the Siguiri Gold Mine in Guinea through its subsidiary Société AngloGold Ashanti de Guinée S.A. (SAG). AngloGold Ashanti negotiated with Guinea's government the exploitation of ancestral lands that belonged to communities whose livelihoods have been based on artisanal mining in the area for centuries.

In 2015, the company, in conjunction with the Guinean military, violently evicted some 380 families in order to expand its mining operations. Conditions at the resettlement site, including water, schooling, health clinics and housing were badly deficient, and community livelihoods have been adversely affected by the resettlement and the company's operations.

Inclusive Development International conducted an investment chain analysis of the project at the request of the communities, identifying the financial links from the Siguiri Gold Mine to Nedbank and to IFC. This investment chain mapping was key to understanding the financial flows from investors to the project, and where responsibilities lay.

IDI conducted training workshops with the communities to explain these findings and the opportunity presented to file a complaint to the CAO. Armed with this information, the community members requested that IDI and two Guinean organizations, CECIDE and MDT, to help them file a complaint to the CAO. The three organizations submitted a complaint in April 2017, and it was found eligible. This marked the first time that the CAO admitted a complaint involving a commercial bank with a general corporate exposure to a parent company of the harmful project that is the subject of the complaint.

The next challenges were to get the company to the table to enter into the CAO's dispute resolution process with the community. In order to achieve this objective, the CSOs wrote to AngloGold Ashanti's major investors and financiers, informing them about the abuses that had occurred in Guinea and calling upon them to use their leverage to get the company to enter into good-faith mediation with the community and make every effort to ensure redress. Feeling the heat from its investors, AngloGold Ashanti agreed to mediation, and a dialogue has been underway since July 2018. As of mid-2019, after more than 200 hours of dialogue, the two sides have reached agreements on access to water and schooling at the resettlement site, compensation and livelihood restoration, and human rights and community consultation and consent on any future resettlement required for the company's mining operations.

3. UGANDA CASE: COMMUNITIES VS. NEW FORESTS COMPANY

The second case filed to the CAO regarded timber plantations in two districts -Kiboga and Mubende- in Uganda, documented in Oxfam's case study "New Forest Company and its Uganda Plantations". For this project two complaints were submitted after the communities supported by Oxfam were able to 'follow the money back up' to the IFC. The IFC invested money in a South African private equity agribusiness fund whose portfolio included the New Forests Company (NFC). Communities in two different districts were evicted, and around 20.000 people were forcibly displaced from their homes and didn't receive any compensation. Both c**ases went through a mediation process facilitated by CAO, resulting in remedies for the affected communities. Despite the initial wishes of the complainants, the case did not the proceed to compliance review.**

In their complaints to the CAO, the communities stated that they wished to have both mediation and a compliance investigation. After the assessment period, the communities agreed with the company to go into the dispute resolution phase facilitated by the CAO. After three years of negotiations, communities finally got some land where they were able to plant and harvest crops and rebuild their homes, as well as gaining access to a community development fund. It was not as much as the communities deserved for what they had suffered but was at least some redress for the communities. When the mediation process closed, the CAO decided not to open a compliance review investigation because they thought that it could throw the agreements into jeopardy. IFC was thus never investigated or held accountable for breaches of its standards.

Some lessons learned from this case: CSOs need to keep challenging CAO in these types of cases if communities would like both mediation and compliance. The compliance review function is vital as it aims to prevent the same mistakes happening again.

4. GUATEMALA SANTA CRUZ BARILLAS CASE: HYDROELECTRIC DAM

Local communities in Guatemala submitted a complaint to the CAO after Oxfam exposed IFC's FI links to the Santa Cruz Barillas hydroelectric project in its report "the Suffering of Others". IFC had invested in equity in CIFI, an infrastructure private equity fund, which in turn provided funding for Hidro Santa Cruz (HSC).

HSC failed to consult adequately with local communities about the project and while purchasing land, and this engendered distrust among the predominantly indigenous Mayan population, reliant on subsistence farming. The communities began to voice their opposition to the project and tension escalated further as HSC started to build access roads and surround a waterfall of spiritual significance to local people with construction equipment. The conflict devolved into a cycle of community protests, violent crackdowns by state and company, kidnappings, and arrests of local activists. The dispute became so intense that in 2012, the Guatemalan government declared a state of emergency in Barillas - the first time this had happened since the end of Guatemala's civil war. Civil and political rights were suspended in the area and local people reported house raids, arrests without warrants, sexual violence, theft, intimidation, and destruction of property. A local community member, Andrés Pedro Miguel, was killed and several others injured.

In 2015, with the support of Oxfam, communities filed a complaint to the CAO and decided to go through a compliance investigation rather than a mediation process. Given the violence in the region and the failure of HCS to address the situation, CIFI divested and the project was abandoned. The problems, however, weren't resolved and the negative impacts on the communities caused by the project remain: the land taken has not been returned, there has been no compensation for the abuses suffered. The legacy of the project is still endured by communities to this date, leaving them impoverished, traumatized and ill. The compliance report – which was completed in November 2018 – has still not been published, delayed for over a year while the IFC deliberates its response.

5. RCBC CASE IN THE PHILIPPINES AND LAMU CASE IN KENYA: THE ELIGIBILITY PROBLEM

In the Philippines the IFC has several investments (loan, equity and bond) in the Rizal Commercial Banking Corporation (RCBC), one of the largest commercial banks in the Philippines. Though extensive research, IDI exposed that RCBC was bankrolling 19 coal fired power plants in different parts of the country with significant environmental and social impacts from health problems caused by air pollution, inadequate compensation for physical displacement, loss of livelihoods and biodiversity, and violation of indigenous people's rights. With the support of IDI, the Philippines Movement for Climate Justice, and BIC Europe, communities filed a complaint to the CAO regarding the 19 coal investments. The complaint also raised issues about wider climate change impacts. CAO found only 11 of those coal projects eligible, arguing that IFC's exposure to the other 8 projects was not material. 10 of those projects had direct financing from RCBC, and one involved issuing a project-related bond financing.

None of the coal companies agreed to dispute resolution, so the case was transferred to Compliance. In October 2019, the CAO approved a full compliance investigation into the complaint, which is still pending.

The Lamu case is related to a coal project in Kenya. In this case, IFC was exposed to Amu Power, a company established by the Kenyan firm Centum Investment and Gulf Energy through its investments in Kenya Commercial Bank (KCB), Co-Operative Bank of Kenya, and FisrtRand Bank. The coal fired plant in Lamu has significant concerns in terms of air pollution and health, air pollution and communities' livelihoods. 109 farmers were displaced to make room for the coal project which will cause destruction of crops and livelihood impacts. There was no sufficient consultation process or information about resettlement.

The CAO found the complaint ineligible given that IFC claims that its investment in the FIs are ring-fenced and therefore CAO does not find any 'material exposure' to the project given CAO's eligibility criteria.

LESSONS LEARNED

1. FROM RESEARCH

Reflecting on 10 years of CSO campaigning on IFC's FI investments, it is clear that this type of financing model is more and more popular amongst DFIs despite the heightened risks to communities and the environment. The 2012 reforms to the IFC's Performance Standards led to the institution effectively outsourcing development to its FI clients, weakening the standards' application to FI sub-projects and undermining transparency, information disclosure and stakeholder engagement.

CSOs have published an extensive body of work on FIs, which has been critical to understand the level and scope of the problem. The publication of research has been an important tool to share and highlight the concerns and trends over IFC's financial intermediary lending, and this in turn was important to open the space for dialogue and debate not only with IFC's management, but also with the Bank's decision makers. Earlier publications focused on the more technical 'policy' level; but a real breakthrough occurred when we started telling more of the human story – to demonstrate the human face of the impacts of FI lending.

On one hand, evidence-based research of cases, that reveals the financial flows and links from the project on the ground all the way up to the financial sponsors, is important to understand the complexities of the financial sector. On the other hand, evidence-based research of cases, that puts a human face to affected communities is critical to ground the debate and shift it from being a faceless technical discussion to one about the suffering of real people on the ground.

Among the lessons from the research is that t**here is an urgent need to dramatically change the investment model in exchange for one that does care for people, human rights and the environment.**

During this period of time many of the policy improvements that took place at the institutional level haven't been tangible in terms of its actual implementation on the ground, but each one serves as a steppingstone towards deeper reforms over time. Looking at the research and the changes that have occurred over time, it is possible to observe that many of those changes respond to current political contexts coupled with – unfortunately - the level of seriousness of the cases exposed by the research. For example, it took the filing of a mass climate complaint from the Philippines to push the IFC into its Green Equity Approach.

Among other lessons is that it is important that through the research, we engage directly with communities, and plan that a direct outcome of such research should be the filing of a complaint to the respective accountability mechanism (where communities agree with this approach). A research publication is important to open the space for dialogue, but filing a case based on the research has the potential to bring enhanced attention to the issue and to achieve actual systemic policy changes.

In every piece of research and case work, the lack of transparency and project related information from the financial intermediary has been the most important and recurrent challenge. Disclosure is the bedrock of any other potential reforms within the financial and banking sector, as without it, communities and CSOs cannot access the information they need to engage meaningfully with projects or to hold financial institutions accountable for harms. CSOs have been constantly advocating for systematic reform in IFC's disclosure of information, but despite some moves in the right direction (for example, the disclosure of sub projects funded via private equity) the vast bulk of FI lending is still shrouded in secrecy, and campaigners only find out about links through expensive financial databases.

Another challenge and lesson emerging from the research and case work is the issue of what type of client is receiving the money from IFC, and how can that institution ensure that its funds are channeled for the specific purpose of the financing, as well as to projects that aren't harmful to people, that respect human rights, promote sustainable development and consider the problem of climate change. 10 years of research has brought up many proposals to address this question of selecting appropriate FI clients: ranging from selecting the correct partners by doing a thorough investigation on their portfolio, mission and mandate; to more extreme solutions such as stop financing altogether to high risk sectors or clients. CSOs have pushed for IFC to be more selective of its FI clients and start evaluating their clients through a human rights approach and sustainable development lens. That is necessary in order to guarantee that there is no possibility of funds going to harmful projects. Lending money to socially and environmentally responsible private actors might be one of the most successful solutions to avoid many of - if not all - the problems that FI lending entails.

The IFC has responded to these demands by ring-fencing its debt investments, which means a contractual agreement to channel its FI financing to a specific and targeted sector and/or activity. Research has shown that, despite IFC claims that this allows the institution to 'know' that its funds are not destined for projects that might cause serious harms and human rights violations, there are still many challenges that need to be overcome to ensure funds are only used for specific ends. The main factor is the lack of transparency of FI lending contracts that allow for scrutiny and ensure that the ring-fencing is present and is effective. There is currently no way to know how the IFC monitors and controls that money lent to a private bank, for example, is not being used for projects outside the limits imposed by the ring-fence. Through research and case work, CSOs are demanding that in order for the ring-fencing to work, at the very least the specific contractual clauses detailing the ring-fencing need to be public, the money has to be traceable and reported annually to IFC, the investment has to be audited by IFC or a third party, and such annual reports and audit reports need to be publicly available.

Another important lesson is that evidently FI investments are not going away. This trend is not only visible at the IFC, but also in other Development Finance Institutions, as well as facilities like the Green Climate Fund which lends 100% through financial intermediaries.

Another important trend is that FI investment is becoming much more complex than before, with the use of more opaque financial instruments like bond underwriting and holdings and distressed asset funds. This requires CSOs to enhance their understanding and financial literacy – and if necessary, to consult experts, to ensure we can learn where the leverage points are, how to apply pressure, and how to ensure cases are still eligible under accountability mechanisms.

Furthermore, FI projects have so many layers that it can be extremely difficult to disentangle the flow of money through every FI that participates (there are FIs within FIs).

2. FROM CASE WORK

Over the past 10 years, communities have filed 17 cases to the CAO on financial intermediary investments. CSOs' work supporting communities to file complaints to the CAO has been one of the most powerful tools used to date, to expose the problems related to FI lending, to achieve systemic policy reforms, to understand IFC's responses and positions, to achieve redress for communities, and to hold the IFC accountable.

During 10 years of community support work, CSOs have learned that engaging communities fully in the complaints process is critical. In order to empower people to defend their rights, capacity building is a core element. For each case filed to the CAO, the supporting NGOs carried out workshops with communities in order to help them understand the process and help them feel ownership.

Bringing a case to any accountability mechanism is not simple or easy. It requires resources and time to do a proper research and fact checking missions, to engage at every step with communities to have them understand the process, the challenges, the risks, the opportunities and even more important, to manage expectations of what is feasible or not, and help them to make an informed decision to move forward or not. While there have been some successes after filing a complaint, like reaching agreements and winning back land or compensation for communities, most of the outcomes were changes at the policy level rather than at the community and project level.

Filing cases helped to bring IFC senior management's and Board's attention to the FI problem and forced IFC to think about broader systemic solutions; however, many problems related to the projects were not resolved, leaving communities feeling that justice was not achieved. In many cases compensation or restoration of livelihoods were simply not sufficient in relation to the harms suffered, and the pain and suffering of communities in many cases continue to this day; and the feeling that neither IFC, the FI nor the company were held fully accountable for the wrong-doing remains. A big challenge is to ensure that communities resolve their grievances and obtain appropriate and full redress for their loses and suffering. Another challenge is that at present, though nothing formally blocks communities from having access to both mediation and compliance, in practice this rarely occurs – so that communities who may receive some redress via mediation do not then gain the satisfaction of having the IFC held accountable for breaches of its standards. This can also prevent the IFC from learning lessons from its mistakes – and doom it to repeat the same errors, with the concomitant costs for communities.

Among other critical challenges identified after reflecting on case work is the lack of clarity in terms of CAO's eligibility criteria. This has become one of the main uncertainties when filing complaints. The Philippines and Kenya cases reflect this conundrum of the eligibility criteria for FI related complaints. Despite NGOs helping to establish a financial relationship between IFC's FI and the project, that does not guarantee that complaints are going to be found eligible.

An FI-related complaint has to meet all of CAO's three eligibility criteria: i) The complaint pertains to a project that IFC and/or MIGA is participating in, or is actively considering, ii) The issues raised in the complaint pertain to CAO's mandate to address environmental and social impacts of IFC/MIGA projects, and iii) The complainant is, or may be, affected by the environmental and/or social impacts raised in the complaint. For an FI case, the first criterion is the most critical to determine, and according to CAO, IFC must have an investment in the FI that would mean it is 'materially exposed' to the project, and the FI must have a material exposure to the project itself. The complex dynamics and forms that the FI lending can take define this challenge, especially the concept of 'material exposure'. Material exposure gets murky especially when dealing with parent companies and subsidiaries, and financial instruments like overdraft facilities and use of bonds among others.

When the IFC invests money in a private equity fund that directly finances a harmful project, material exposure is quite evident, and complaints meet the eligibility criteria of CAO. When the FI is a traditional commercial bank, it could be a similar situation like in the AngloGold Ashanti case where the IFC invested in a private bank (NEDBANK) and that bank in turn through a general corporate loan gets exposed to the harmful project. However, the situation gets more complex when other layers are added to the investment flow in terms of the type of financial instrument used and the timing of the transaction like in the case of the 8 ineligible coal plant power projects in the Philippines, or in the Lamu case in Kenya that did not meet the eligibility criteria of the CAO.

MOVING FORWARD

Building on these lessons learned from 10 years of campaigning – both at the policy advocacy level and filing cases in support of communities – the workshop then focused on practical actions for next steps. What needs to happen now, both at IFC and other DFIs who are lending more and more through FIs? What are the leverage points needed when dealing with new financial instruments and how can we truly make progress towards much more transparency in FI lending? How can the IFC better be held accountable and assume responsibility for the harmful projects supported by its FI clients?

There are six main areas of challenges CSOs need to address:

1. How do we ensure that ringfencing works? What is the minimum information DFIs need to disclose in order to allow the public to know, understand, and ensure the use of proceeds are going where is expected? There is a strong risk that it can just serve to insulate IFC from responsibility.
2. Nuances about financial linkages and eligibility: The intricate network of complex financial relationships is growing more sophisticated by the day: CSOs need to have more financial literacy about this to be able to help communities.
3. Transparency and disclosure: How can DFIs require basic project information including environmental and social documentation of their FI clients' subprojects in a way that overcomes the issue of bank-client confidentiality?
4. How can we use progress at IFC (and now EIB) on coal and other fossil fuels financing to push the climate agenda and ensure other DFIs follow suit?

5. How can we ensure better remedy for affected communities?
6. Accessibility for communities to complaints mechanisms: We need a better grasp of eligibility criteria and to be able to use the CAO/accountability review to look at this issue.

Strategies to move forward:

1. CSOs need to make a concerted effort on transparency: to push every DFI towards a more transparent system for sub-project disclosure but also contract transparency in FI lending.
2. Participate actively in International Accountability Mechanism including CAO's review process. These are opportunities to influence and advocate for clear definitions on eligibility and materiality. It is important that eligibility should not be left in the hands of the Board – we need to set the agenda.
3. Monitor IFC's Green Equity Approach: ensure it is made public with final amendments taken on board and track its implementation to ensure no loopholes emerge. Ensure we gather evidence to influence the review of the GEA in 2021, to ensure it is expanded to include all fossil fuels. Engage actively with other DFIs to transfer similar good practices.
4. Identify and work with DFI Executive Directors who can champion our asks on FIs. As EDs are constantly changing, we need to ensure we continue to educate them on this long-standing issue.
5. Regarding ringfencing: focus on commercial banks. Are the ring fences contractually binding, traceable, auditable? Take a step back, promote minimum standards required of FIs, and promote the disclosure of their environmental and social management system (ESMS). As more than 80% of IFC FI investments are loans not equity -similarly with other DFIs- getting ringfencing right is a top priority.
6. Continue to push for mandatory human rights due diligence. Explore whether there are ways to impose penalties or sanctions.
7. Advocate for DFIs to develop a public debarment list of companies and financial institutions based on human rights and social and environmental compliance for when financial intermediaries and their clients are persistently recalcitrant with respect to complying with the DFI's Environmental and Social Standards, including disclosure of basic project information or when financial intermediaries and their clients are not willing to fully comply with the recommendations of the DFI's accountability mechanism after being subject of an investigation.
8. Educate ourselves on financial literacy, understanding of new financial instruments such as bonds and underwriting etc. and seek actively alliances with experts, academics and other organizations with more financial and banking sector expertise.
9. Push for more community engagement to promote social accountability: ensure that we never divorce the policy debate from the needs and priorities of affected communities. Ensure that when we do win systemic changes as a result of cases, these are communicated effectively to communities.
10. Develop proposals for exclusion lists – for example coal exclusions, large hydro, Category A projects (there are some positive precedents in some IFC FI investments).
11. Work to ensure that IFC responds to every compliance finding with a real remedy plan. Push for consultation and engagement with the complainants at the moment of the response. Mandatory consultation with communities on remedial action plans. When

possible, assess whether going first to compliance review instead, and then to dispute resolution would be more strategic to overcome power imbalances in mediation. These are all priority issues to raise during the CAO/accountability review and/or other DFI's accountability mechanism review process.

12. Advocate for a remedy fund. In case of IFC, the CAO review provides the perfect opportunity to advocate for this (and in light of the Supreme Court ruling). Seek for opportunities within other DFIs.
13. Recognize the importance of situating a complaint to a mechanism within a broader advocacy strategy. Find other leverage points to push for better outcomes in complaints: for example, by applying pressure to other investors to ensure companies come to the negotiating table.
14. Look for other pressure points or allies, such as the Equator Principles, southern banking regulators or sustainable banking associations.
15. Support each other's campaigns through regular DFI Working Group calls (every 2 months), to share our work, good practices and strategies, for policy advocacy and case updates with one another to better support progress from one institution to another and drive the race to the top. Oxfam and BIC Europe commit to coordinate these calls.

Learning from 10 years of campaigning on financial intermediary lending at the International Finance Corporation

Suggested background reading list

Blogs:

- A very welcome and long awaited reform on transparency for IFC's financial intermediary lending
- A year after promising to improve, what has the IFC done to clean up their financial intermediary lending
- Opinion: Can the World Bank clean up its fossil fuel problem?
- The seismic shift on climate finance that you may not have heard about...
- Opinion: A new IFC vision for greening banks in emerging markets
  Head of IFC, Philippe Le Houérou writes: "Over the past few years, civil society groups have been critical of IFC for supporting financial intermediaries that have coal exposures.... In response, we have changed our policy in the past two years to vastly reduce our direct and indirect exposure to coal in new financial intermediaries' projects."
- Opinion: Here's how the IFC is working with financial institutions
  Head of IFC, Philippe Le Houérou announces cut in high risk FI lending: "Our staff and management make every effort to ensure that we reduce our exposure to higher risk FI activity and apply greater selectivity to these transactions. In the last fiscal year, for instance, we financed five projects that we classify as higher risk under our Sustainability Policy, compared to 18 in FY16."

Media

- World Bank accused of funding Asia 'coal power boom'
- Vietnam firms involved in 'illegal land grabs'
- World Bank funding 'shrouded in darkness and riddled with abuse'
- In Scramble for Land, Group Says, Company Pushed Ugandans Out
- Oxfam sounds Uganda land-grab warning
- World Bank Borrowers Accused Of Funding Unfair Evictions

CAO audit on financial markets:

Important reading to understand the complexities and risks of FI lending and the secrecy surrounding it.

In 2013, CAO published highly critical audit of financial sector lending: "IFC knows very little about potential environmental or social impacts of its [financial market] lending." The CAO follows it up with monitoring reports available here, which continue to note problems.

Reports:

- Out of Sight, Out of Mind (2010) Bretton woods Project and Ulu Foundation. This paper analyses IFC lending through financial intermediaries, and finds a number of causes for concern, including a worrying lack of transparency, inadequate attention to social and environmental concerns, and a failure to link directly to proven developmental impacts. It sets out recommendations for a complete reformulation of IFC's approach.
- Land and Power (2011) Oxfam: includes two FI cases in Uganda, further discussed in the case study: The New Forests Company and its Uganda Plantations (2011)
- Risky Business (2012): Oxfam Highlights the risks with Financial Intermediaries (FIs) lending for communities, and the increasing trends of DFIs lending through FIs.
- Cashing in on Climate Change (2012) Eurodad
- Follow the Money (2014) Bretton Woods Project
- Down the Rabbit Hole (2014) Program for Social Action, India
- Rubber Barons (2014): Global Witness report on a case in Cambodia that led to a CAO case filed by Equitable Cambodia, Highlanders Association and IDI
- The Suffering of Others Oxfam with 11 other partners (2015): Research and evidence linking IFC through commercial banks to damaging projects where thousands of people were displaced from their homes and lands and have their livelihoods devastated
- Owning the Outcomes Oxfam with IDI (2016): Challenged the main assumptions and arguments that IFC put forward to avoid responsibility for these risks.
- Outsourcing Development: Lifting the Veil on the World Bank Group's Lending through Financial Intermediaries (2016): Introduction to the Outsourcing Development series of exposés.
- "Disaster for Us and the Planet": How the IFC Is Quietly Funding a Coal Boom (2016): Exposé of IFC links to the Asian coal boom via financial intermediaries.
- Bankrolling India's Dirty Dozen (2016): Exposé of IFC links to 12 of India's most irresponsible companies and gross human rights and environmental violations via its investments in Indian banks.
- Reckless Development: The IFC's Dodgy Deals in Southeast Asia (2017): Exposé of IFC links to numerous dodgy deals in Southeast Asia via FIs, highlighting the Ban Chang coal mine in Myanamar.
- Unjust Enrichment: How the IFC Profits from Land Grabbing in Africa (2017) Exposé of IFC links to land grabs across Afica via FIs, highlighting the Siguri gold mine in Guinea.
- Time to Come Clean: How the World Bank Group and International Investors Can Stop the World's Most Dangerous Coal Plant (2017): Exposé of IFC links to the Rampal coal plant in Bangladesh via FIs.
- Broken Promises: The World Bank, International Investors and the Fight for Climate Justice in the Philippines (2018): Building on "Disaster for Us and the Planet" this piece delves into IFC's exposure to 20 new coal plants in the Philippines.
- Coming out of the Dark, BIC Europe and SOMO (2018), looking at whether the IFC is reducing fossil fuel support through FIs
- Open Books (2018): Oxfam: Shows what policies and initiatives exist among DFIs and the banking sector to promote disclosure of project information and proposes a framework to improve them.
- Digging Deeper: Can the IFC's Green Equity Strategy Help End Indonesia's Dirty Coal Mines? (2019): Profiles the Kalti Prima Coal mine in Indonesia along with IFC intermediary links to other

major players in Indonesia's coal mining industry, and analyses the proposed Green Equity Strategy through this lense.

- IDI Database of Harmful IFC Sub-Investments: Database of over 160 harmful projects that IFC is exposed to through its FI portfolio

-Other related publications on the banking sector:

- Banking on Shaking Ground (2014): Revealed how Australia's big four banks are backing companies connected to land grabs, forcing people off their land without adequate consent or compensation.
- No Excuse (2015): Details how exactly Australian banks can enact a Zero Tolerance for Land Grabs approach and ensure that they're not profiting from companies that destroy the lives of communities overseas. Still banking on land grabs (2016): Follow up report after two years of Banking on Shaky Ground.
- Developing Effective Grievance Mechanisms in the Banking Sector (2018): Explore responsibilities of private sector banks to ensure access to remedy.
- Consent is everybody's business: Why banks need to act on FPIC (2019)