



THE IFC AT A CROSSROADS: LABOUR RIGHTS FOR DEVELOPMENT IMPACT

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A CROSSROADS FOR THE IFC

The International Finance Corporation (IFC) – the private sector lending arm of the World Bank Group – is the largest global development institution focused on the private sector, committing more than US\$43 billion in the fiscal year 2023.¹ Even as regional development banks scale up their operations, the global remit of the IFC ensures that it sets a standard for development finance around the world.

As the role of private capital in development finance grows, the importance of the IFC's unique role increases. The World Bank's 'Evolution' – a process that began in the autumn of 2022 and resulted in a report endorsed by the shareholders during the 2023 Annual Meetings commonly known as the 'Evolution Roadmap' – stresses not only the need for the Bank to scale up its engagements but also emphasises the importance of 'enabling and mobilising private capital.'² Upon taking office in June 2023, Ajay Banga, World Bank Group President, put this agenda into action when he announced a larger emphasis on the private sector and embodied it in a 'Private Sector Investment Lab' with consultative functions that flow through the IFC's Managing Director.³

This emphasis on the private sector is not new for development finance or for the World Bank Group, and it has driven the expansion of the IFC for years. In

2017, the Bank launched the Private Sector Window of the International Development Association (IDA), a mechanism for leveraging funds set aside for IDA members – the world's poorest countries – to invest in the private sector.⁴ In addition to supporting private sector finance in the poorest countries, the IFC has pledged to increase financing to fragile and conflict-affected situations (FCS) to equal 40% of annual commitments by 2030.⁵

Given its global scale and scope, the IFC plays a leading role among development finance institutions. The Bank's performance standards are a living example of this leadership, as other institutions have developed their own standards based on those of the IFC and converged further over time. Performance Standard 2 (PS2), the section that covers labour and working conditions, was the first of its kind when it was launched in 2006, but nearly all other multilateral development banks have since adopted comparable protections.

The IFC's growing scope and ambition – and its growing portfolio among very poor countries and in FCS areas – create significant opportunities for the IFC but also underscore the need to review its record and its existing policies. The IFC has not undertaken a review of its Sustainability Framework in more than a decade, while many of its peer institutions have reviewed their policies multiple times over that period.

Furthermore, as the IFC commits to expanding in areas where legal protections are scant or difficult to enforce, the importance of the Bank's

¹ <https://www.ifc.org/content/dam/ifc/doc/2023/ifc-annual-report-2023-building-a-better-future.pdf>

² <https://www.devcommittee.org/content/dam/sites/devcommittee/doc/documents/2023/Final%20Updated%20Evolution%20Paper%20DC2023-0003.pdf>

³ <https://www.worldbank.org/en/news/press-release/2023/06/22/world-bank-group-intensifies-focus-on-private-sector-launches-effort-to-scale-investment-in-emerging-markets>

⁴ <https://ida.worldbank.org/en/financing/ida-private-sector-window>

⁵ <https://www.ifc.org/en/what-we-do/sector-expertise/fragile-and-conflict-affected-situations>

risk assessment, project oversight, and swift enforcement of performance standards grows dramatically. More than ever, it is the IFC's own capacity to uphold the rights of workers and community members impacted by its projects that will determine whether its investments can really deliver development to meet the institution's goals.

LABOUR RIGHTS AT THE IFC: FROM AMBITION TO IMPLEMENTATION

In 2006, the IFC became the first multilateral development bank to adopt a performance standard covering working conditions on its projects. This Performance Standard 2 (PS2) protects the fundamental labour rights of covered project workers and outlines basic contours of the labour/management relationship. It also guards against discrimination, child labour, and occupational health and safety risks.

Recognising that “the pursuit of economic growth through employment creation and income generation should be accompanied by protection of the fundamental rights of workers,”⁶ PS2 provides a systematic way for the IFC to evaluate and address labour violations at its projects while representing an important step forward in the IFC's capacity for risk management and compliance with international norms. Other MDBs subsequently adopted similar policies – often modelled explicitly on the IFC's PS2 – and over time these policies have evolved and largely converged.

In fact, since the IFC last revised its Performance Standards more than a decade ago, many peer institutions have not only adopted their own labour standards but have revised them more than once, in some cases improving their clarity and coverage. As the IFC's mandate and footprint expands, a comprehensive review of its performance

standards and their implementation is indispensable for delivering the development results the institution seeks.

In certain key cases, workers on IFC projects have been able to use PS2 to raise concerns about violations in their workplaces and have relied on the support of the IFC to bring their employer into compliance. Unfortunately, however, the rights and protections guaranteed to workers in PS2 have frequently proven difficult to enforce. As we will explore below, three characteristics of the IFC's operations have undermined the effectiveness of the performance standards:

- Failure to hold clients accountable for violations of performance standards.
- Unwillingness to engage workers and trade unions directly to understand freedom of association risks and violations.
- Inadequate internal accountability processes for failure to uphold policies.

We will discuss how these elements have played out in a handful of case studies below and consider how they can be improved.

The IFC has been a leader among peer institutions in labour risk management since the adoption of PS2, and the decisions it takes in its forthcoming policy review may set the policy direction for the next decade. It is crucial that it adopts policy reforms that improve clarity, implementation, and accountability, so that workers on its projects can rely on timely and equitable resolutions of labour rights violations. But given the IFC's expanding role in promoting development across the world, the institution must also consider adapting its internal practices and controls so that its well-designed policies are appropriately implemented to maximise their development impact.

⁶ PS2 text, para 1

THE PRIVATE SECTOR AND THE PUBLIC GOOD

The IFC is the world's largest private sector development finance institution, and it has grown along with the private sector commitments of the World Bank Group. Unfortunately, the Bank's emphasis on private sector growth and investment has taken place alongside historical austerity and disinvestment from the public sector. This dynamic is visible within the Bank itself: for example, the IFC used to pay some of its profits towards the International Development Association (IDA), but during 2018 the transfers started going the other way as the IFC ceased transferring profits to the IDA and began to receive IDA funds through the Private Sector Window.⁷

This historic shift has proved harmful not only because the promised private sector funds have frequently failed to create more investment, but because the introduction of the

private sector into the provision of services, such as healthcare and education, has reduced access to and quality of these crucial public goods. This shift in resources, from the public sector to the private sector, is a labour issue because it frequently undermines decent work. Public sector work is a key source of employment and community support in many countries, and in many cases private competition in public services has undermined this pillar without any comparable replacement.

But that does not have to be the case. The private sector plays a key role in development, and the IFC's investments will be necessary for generating growth in years of global challenges and lean investment. But to avoid simply throwing public dollars toward private gain, the institution must seriously leverage its power to enforce international norms and promote development led by decent work. The upcoming policy review is an ideal opportunity to move boldly towards that aim.

LABOUR RIGHTS ON IFC PROJECTS: PS2 IN PERSPECTIVE

After more than two decades since the adoption of PS2, we must consider the IFC's record in response to allegations of labour rights violations on its projects. The record is mixed – while in a few key instances the IFC's timely intervention with its client brought about a favourable resolution to protect labour rights on a project, in many cases, even when labour rights violations are found, the remedy and action from the IFC is insufficient or too late to address the issues.

The global labour movement has filed dozens of cases since PS2 was adopted, spanning sectors and regions of the globe. The cases below are chosen primarily to account for the evolution of the IFC's practices, variation between sectors, and a certain degree of thoroughness and consideration by the Compliance Advisor Ombudsman (CAO). Not every case was taken up by the CAO, and many cases were never fully resolved. But the lessons of these cases are broadly representative of the experiences of trade unions with IFC projects, and they provide lessons to build on moving forward.

⁷ Charles Kenny, "The New Model IFC Still Isn't a Good Deal for IDA Countries," Center for Global Development, 7 December 2022 <https://www.cgdev.org/blog/new-model-ifc-still-isnt-good-deal-ida-countries>

BUJAGALI DAM: EARLY PROMISE

One of the first major infrastructure projects approved after the adoption of PS2 was the Bujagali Dam, a 250 MW hydropower facility in Uganda, approved in April of 2007 (Project # 24408). The Ugandan Building Workers Union (UBWU) expressed interest in organising the construction workforce on the project and reached out to Prime Contractor Salini Costruttori, IFC Client Bujagali Electricity Ltd. (BEL), and the IFC. The UBWU had already reached a collective bargaining agreement with Salini on another substantial construction project so the union was optimistic that it could reach a favourable settlement.

While IFC officials met cordially with trade union representatives, the UBWU was unable to obtain meetings with either Salini or BEL, both of whom delayed for months under different pretexts. This is in direct violation of the requirements of PS2, which requires engagement with workers' organisations. Instead of meeting with the UBWU, Salini invited them to a 'stakeholders' consultation' in which the company outlined its plans for the project and solicited feedback from community members without any framework for negotiations, social dialogue or accountable decision-making. There was no discussion of labour rights at the stakeholders' consultation. As Salini and BEL denied meetings and site access to the UBWU, three workers died, and 100 casual workers were employed to clear brush worked in precarious conditions.

After months of delay, direct involvement of the IFC officer in East Africa helped the UBWU and Building and Wood Workers International (BWI) obtain a meeting with BEL in Kampala. The IFC was present, and actively explained the requirements of PS2 and its expectations of BEL and Salini. Ultimately, in large part thanks to

PS2, the union was able to meet with Salini to begin discussions about organising the site and participating in the workplace health and safety committee. The majority of workers on the site joined the UBWU and negotiated a collective bargaining agreement (CBA) with Salini in December of 2007, based largely on the terms of the agreement they had on another nearby project, which made marked improvements in wages and working hours.

Ultimately, direct engagement from responsible IFC project staff was crucial to overcoming the stalling tactics of the client and the employer and implementing the requirements of PS2 and delivering a victory for workers' rights in Uganda. It is notable that these achievements took place **before** the IFC actually invested in the project in January 2008.

Unfortunately, engagement from the IFC dropped off substantially after those initial victories. As a result, subcontracted workers on the site suffered wage theft, injury, and death. More than 15 years after the loan was disbursed, the CAO continues to monitor cases of unpaid compensation and worker health and safety.

The Bujagali Dam project showed PS2's promise. By intervening early and actively before loan disbursement, the IFC was able to overcome initial freedom of association issues by physically bringing together its client and the trade union seeking to represent project workers at the Bujagali Dam. An agreement was further facilitated by the existence of a prior agreement at another site between the contractor and the UBWU. Unfortunately, as time went on, contracted workers at the site remained vulnerable to labour rights violations that were left unresolved long after the project was complete.

AVIANCA: LESSONS LEARNED?

In 2008, the IFC approved a US\$50 billion loan to Colombian airline Aerovias del Continente Americano S.A. (Avianca) to renew its fleet over the next four years (Project # 25899). Before the Board's approval of the project, trade unions brought an outstanding International Labour Organization (ILO) complaint against the airline to the IFC's attention, but the project was nevertheless approved.

Avianca denied its employees the freedom of association, refused to bargain in good faith, and discriminated and retaliated against the unions by firing union members and offering preferential routes and benefits to non-members. Trade unions remained in communication with the IFC for years about ongoing violations of workers' rights and, finally, in November of 2011, the ITUC/ Global Unions Washington Office, the International Transportation Workers' Federation (ITF), and two Colombian trade unions filed a complaint with the CAO outlining Avianca's persistent violations of PS2, Colombian labour law, and ILO conventions. The complaint not only raised concerns about the IFC's inability to enforce its policies but also its own due diligence process, as not only had the project been approved in light of a pending ILO complaint, but independent labour audits conducted by the IFC excluded trade union participation and did not disclose their findings.

In a report released in 2015 – three and a half years after the CAO complaint was filed and nearly eight years after the initial complaints were filed – the CAO found that the IFC's initial labour assessment was inadequate and that the disbursement to Avianca should not have been made, given the substantial labour

risk connected to Avianca and to Colombia, a country with a history of repression against trade unionists.⁸

The report highlighted inadequacies in the IFC's labour assessment and due diligence process; a failure to hold Avianca accountable for nondisclosure of key documents related to its labour risk assessment and action plans; a lack of knowledge on the part of IFC staff about freedom of association issues; and a distinct lack of tools to enforce PS2 compliance once a loan was disbursed.⁹

The IFC agreed to enhance internal capacity to understand labour risks and engage more regularly with trade unions but disagreed that its assessment of labour risks and impacts had been inadequate. It also disagreed that it had been unable to enforce PS2 after disbursement. This despite the fact that unions had to file a CAO complaint years after disbursement as a result of the continued violations. While no actions could be taken at the project level because the loan had been paid back in full, the IFC committed to certain operational modifications, including greater consultation with global unions, greater staff training and internal guidance, and a greater reliance on external labour consultants.

While the Avianca case was unfortunately closed after the IFC's loan was repaid – although Colombian courts awarded workers compensation for some of the freedom of association violations outlined in the original complaint – it was an opportunity for the IFC to improve its policies moving forward. Staff training, trade union engagement, and sensitivity to client and country risks could have been improved. The case nevertheless raised questions about the IFC's ability

⁸ CAO Compliance Investigation of IFC, CAO Ref: C-I-R9-Y12-F165, April 27, 2015 <https://www.cao-ombudsman.org/sites/default/files/downloads/CAOInvestigationReportAvianca-May182015.pdf>

⁹ CAO Investigation of IFC Investment in Avianca S.A., Colombia, CAO Ref C-I-R9-Y12-F165, April 27, 2015

to enforce policies after funds have been disbursed and highlighted the long delays between the initial complaint and resolution.

SHERATON GRAND CONAKRY: AT A CROSSROADS

In 2013, the IFC approved an investment of up to US\$26 million in the construction and operation of the Sheraton Grand Conakry, a 186-room hotel in Conakry, Guinea (Project # 32408). The hotel was owned by Palma Guinée, S.A., and opened in 2016 under an operating agreement with Sheraton (subsequently purchased by Marriott). Violations of PS2 began immediately: management delayed a legally required election of delegates from the hotel's opening in 2016 until 2020, while engaging in severe reprisals and anti-union activity. When the union won its election in 2020, management doubled down on its repressive stance – retaliating against union leaders, vandalising union offices and property, refusing to collectively bargain, and denying workers legally required compensation and benefits.

Regular communication between the IUF and the IFC about conditions at the hotel began in 2018, and while union delegates were successfully elected in 2020 in accordance with Guinean Law and PS2, violations of the safeguards continued and accelerated thereafter. While the IFC commissioned a report from an independent consultant to evaluate the situation at the hotel, the report was finalised in August of 2021 and was never disclosed to the workers or the union. The IFC did develop a corrective action plan to address retaliatory dismissals, however a Compliance Appraisal Report from the CAO subsequently found that “there is limited evidence that this was implemented”.¹⁰

Unfortunately, time ran out: in December of 2021, management unilaterally closed the hotel, citing problems with mould, and in July 2022 terminated the jobs of 158 of the hotel's 190 employees without regard for the requirements of PS2 or Guinean law. In October 2022, while ongoing violations of PS2 remained unaddressed, the client stated its intent to prepay its loan back to the IFC and, without any attempt to remedy the historic and ongoing violations of its own policies, the IFC accepted and withdrew. The IUF proposed an ‘Emergency Relief Fund’ to support the workers after their unemployment benefits expired, to be financed jointly by the IUF, the IFC, Marriott, and the client, but the IFC never presented it to the client and the workers went without pay.

In January of 2023, the IUF and Global Labor Justice¹¹ filed a complaint with the CAO to address the persistent and unaddressed violations of PS2. The case was characterised by challenges raised previously, including a lack of willingness to enforce labour standards with non-compliant clients; reliance on third-party labour consultants whose terms of reference and end result remain undisclosed; and a failure to resolve issues in a timely manner. While the CAO did ultimately accept the workers' complaint in August of 2023, it did so seven months after the initial complaint – far beyond the 35 days allowed in the CAO's policy. Unfortunately, in the summer of 2024, more than a year and a half after the initial CAO complaint, the CAO closed the case, finding that while the complaint met the criteria for a compliance investigation, it would not “provide particular value in terms of accountability, learning, or remedial action”.¹²

¹⁰ CAO, Compliance Appraisal Report Regarding Workers' Complaint about IFC's Hotel Investment in Palma Guinée S.A., Guinea, June 28, 2024, p. 4 <https://www.cao-ombudsman.org/sites/default/files/downloads/Palma-Guinea-AppraisalReport-June2024.pdf>

¹¹ At the time, Global Labor Justice operated under the name Global-Labor Justice-International Labor Rights Forum

¹² Ibid

The closure of the CAO’s investigation into the case of the Sheraton Grand Conakry, despite the case meeting the criteria for a compliance investigation and raising longstanding issues with the IFC’s capacity to enforce its standards, reveals the substantial difficulties that the IFC continues to face in implementing labour rights in its investments. Perennial issues including a failure to understand and correct violations of labour rights; an inability to meaningfully enforce the requirements of the performance standards with unwilling clients; and a lack of internal accountability have unfortunately left the workers at this hotel with no livelihood and no hope of “accountability, learning, or remedial action.”

ASSESSMENT: WHAT IS WORKING AND WHAT ISN’T?

Over the course of nearly two decades of labour rights complaints under PS2, the upcoming policy review provides an opportunity to consider what practices have led to the satisfactory resolution of violations and the implementation of the performance standards, and what issues have hindered the robust promotion of rights on IFC projects. While the IFC has increased its staff capacity on labour issues and is building its internal knowledge of this area, three key themes stand out across cases as key challenges:

- Failure to hold clients accountable for violations of performance standards.
- Unwillingness to engage directly with workers and trade unions to understand freedom of association risks and violations.
- Inadequate internal accountability processes for failure to uphold policies.

These issues are connected to staff training and policy compliance, but they go deeper.

For the IFC to fully implement its Sustainability Framework on its projects, it must engage with these systemic internal issues.

Failure to hold clients accountable for violations of performance standards

Constructive engagement with clients by IFC management to enforce the performance standards is crucial, and in many cases has helped workers meaningfully exercise their fundamental rights. The Bujagali Dam case outlined above is one example among others, such as the Pan-Africa Onomo Hotels investment (Project # 43696), in which the IFC’s proactive involvement to resolve freedom of association issues with its client helped promote labour rights and raise standards. Such strong client engagement – specifically bringing them into conversation with trade unions to ensure freedom of association – is vitally important to the global labour movement because our goal is not only the remediation of harm, but a strong working relationship with the employer and the delivery of a successful project.

Unfortunately, the IFC has often been unable to meaningfully enforce the requirements of PS2 when its client does not want to respect project workers’ right to freedom of association. This is partly due to a lack of leverage. It is notable that since the advent of PS2, workers have almost exclusively achieved a meaningful correction of labour rights violations at IFC projects through robust engagement, either prior to Board approval or prior to the disbursement of the investment. But this remains an unacceptable practice. If the IFC is not able to enforce its own policies after loan disbursement, then its very capacity to promote development comes into question. There is, however, substantial room for improvement after funds are disbursed. Transparency and accountability, and the timely involvement of trade unions in the creation and

implementation of Environmental and Social Action Plans (ESAPs) and Corrective Action Plans (CAPs), could enable the IFC to enforce compliance with its policies throughout the life of the project. This is especially important in labour rights since, in many cases, workers are not hired prior to disbursement, effectively precluding labour rights enforcement.

Ultimately it is true that, under sufficient pressure to comply with the IFC's standards, a client may choose to prepay or otherwise abandon the commitments of its loan. This is regrettable for the IFC, but ultimately the Sustainability Framework exists to maximise the IFC's development impact and avoid precious funds for investment flowing to unscrupulous actors. If the IFC values the continuation of a project more than the implementation of its own policies, it is in a dangerous place.

Unwillingness to engage workers and trade unions directly to understand and address labour risks and violations

Workers want the projects they work on to succeed, potentially setting them apart from other stakeholders who may be impacted more negatively by a project. But they are unique in other respects as well: since workers are typically not hired until after a project begins, employees cannot be consulted directly to help with project due diligence and risk assessment. That is why close consultation with trade unions at the local, national, regional, and international levels is so important at the first stages of a project. However, as our previous case studies demonstrate, protecting and promoting internationally recognised labour rights such as freedom of association requires continuous engagement with trade unions and clients throughout the project cycle.

IFC management has stressed the institution's efforts to improve competence

and understanding within the organisation on labour issues as well as communication with trade unions, and it has indeed made progress at a global level. But what is needed is immediate and sustained engagement at the project level with both the client and the workers' representatives. The IFC's reliance on independent consultants to evaluate labour risks not only leaves it open to misrepresenting the situation if the assessment is poorly done – as in the case of Avianca, where consultants allegedly failed to speak directly with union members because they were Avianca employees – but tends to lengthen investigations. In situations where the IFC has resolved freedom of association issues it has done so quickly, and so far, labour consultants have not made that process easier.

Moreover, the IFC has not engaged with trade unions to find creative solutions to issues on projects such as the Emergency Relief Fund described above for Sheraton Grand Conakry workers, refusing to propose it to its client and preferring to withdraw and leave violations unaddressed. This is illustrative of both a failure to engage with trade unions and to hold clients accountable for their noncompliance or to engage them in difficult conversations about remedying their policy violations. This lack of engagement with the Early Engagement Labour Framework (EELFA) – a proposal by the IUF and GLJ to protect workers' rights in the hotel sector by providing a framework for aspiring IFC clients to engage in dialogue with trade unions before projects are presented to the Board – reflects the same underlying issues.

The nature of the employment relationship makes labour rights enforcement challenging but makes a timely and thorough response necessary. If a project closes or terminates workers, they are no longer employees and they have been harmed in a straightforward way. However, if an employer terminates an

employee but rehires them on identical terms as a contractor – unable to participate in trade union elections, collective bargaining, or other activities – the employee’s rights have been violated even though they may not have suffered immediate financial harm. Moreover, in cases where workers have been prevented from exercising their collective rights, the enforcement of other rights – such as occupational safety and health, appropriate compensation, and freedom from forced labour and child labour – is frequently impossible. To implement its performance standards, deeper engagement with workers and trade unions is necessary.

Ineffective internal accountability mechanisms

Given the complexities of labour rights enforcement, many labour rights violations have resulted in complaints filed with the CAO. But unfortunately, despite findings of probable violation of performance standards, meaningful resolution for labour issues has often been elusive. This is partly due to the time-bound nature of labour complaints: when construction ends, or a project closes – with or without anticipation – meaningful remedy and resolution of a labour rights violation is typically impossible.

The CAO’s failure to abide by its own timelines can exacerbate this fundamental difficulty. A complaint was filed in 2020 on behalf of workers at the Karot Hydro Power Facility (Project #36008), a hydroelectric power plant on the Jhelum River in Pakistan where construction began in 2017. While an initial CAO complaint from July 2020 outlined egregious violations of the IFC’s performance standards,

conditions at the site deteriorated further in December of that year when management unexpectedly terminated the jobs of 2,410 workers. This added retrenchment and compensation issues to an already complex case. In January of 2022 – the year of anticipated completion – the CAO decided to undertake a compliance investigation of the case to determine whether the IFC acted in accordance with its own policies. However, notwithstanding the mass layoffs, construction on the project was completed in 2022. Despite visits to the site by the CAO and Building and Wood Workers’ International (BWI) in 2022, as of publication the case has not been resolved, nor have any findings of the investigation been communicated. In January of 2024, Abdul Rasheed, General Secretary of the Awami Labour Union at Karot, who, along with BWI, raised the complaints to the IFC and the CAO with BWI, died. He will not see this case resolved, and it remains to be seen whether his members will see justice.

The long and shifting timelines that characterise difficult CAO cases not only signify obstacles to the enforcement of labour rights on IFC projects and the improvement of internal IFC processes but may point to deeper issues of governance and accountability at the IFC. While the CAO is accountable to the IFC’s Board of Directors, the thorough investigation and timely resolution of a complaint is dependent on interactions between the CAO and the management of the IFC. Considering disturbing media reports alleging high-level management cover-ups of CAO investigations into sexual assault and child death in IFC-funded schools in Kenya, the persistent failure of the CAO to offer a significant corrective to lack of enforcement of labour standards on IFC projects is troubling.

POLICIES TO MAXIMISE IMPACT

The IFC's Sustainability Framework has led its field for many years, and as the IFC is poised to expand, its policies will only become more important. Our review of key case studies above, however, demonstrates that the initial promise of the IFC's Performance Standards for project workers has not been consistently realised. Fortunately, the upcoming Sustainability Framework review is an opportunity for the IFC to not only update and modernise its own policies, but also to set the pace for development finance institutions in the years to come.

IFC PROCEDURES

The IFC's own procedures for disclosing information, conducting due diligence, and oversight, and managing internal processes can be improved to better respond to violations of workers' rights on its projects.

ACCESS TO INFORMATION POLICY

The IFC's current Access to Information Policy (AIP) grants it extremely broad latitude to evade disclosure requirements of proposed projects due to "commercial sensitivity". As a result, many projects are not disclosed until after they have been approved by the Board or, in some cases, after funds are already disbursed or the project has already started. Accountability or justifications for why information is not disclosed are not consistent and are nevertheless impossible to address after the fact.

Given the IFC's difficulty in implementing its performance standards after funds have been disbursed, this lack of disclosure not only

hampers the institution's ability to adequately assess project risk, but also undermines the enforcement of its standards.

The AIP should be reformed to limit the types of information that can be withheld due to commercial sensitivity, and a clear reporting mechanism should be introduced for instances of withholding that allows for accountability and subsequent appeals or challenges, so that the institution can address previous mistakes.

DUE DILIGENCE, PROJECT DESIGN, AND MONITORING

Trade unions should be involved in all stages of a project, including design, implementation, and monitoring. In many cases – including those outlined above, such as Avianca – greater consultation in the early stages of project design could have avoided subsequent violations of PS2. Consultation with trade unions from the start can provide crucial context about trade unions operating in the sector, the labour rights context of the country, and the history of the employer – all of which can help avoid labour rights violations and complaints. The current situation, in which the IFC's Access to Information Policy limits the disclosure of investments until after they are approved, and even following disbursement, means that trade unions are not only left out of planning but often unable to raise salient concerns in a timely manner to resolve issues.

Moreover, trade union involvement in the monitoring process is crucial to ensure compliance with the performance standards. Transparency and collaboration with respect to investigations, Corrective Action Plans, and

contractor compliance will enable the IFC to better enforce its policies throughout the lifetime of its projects.

Ultimately, the project workers are the people who will be most capable of developing an adequate Corrective Action Plan and monitoring its enforcement. Therefore, these plans should be negotiated with trade unions and be subject to regular follow-up.

TIME MANAGEMENT

The timely response to workers' rights violations is crucial – if workers are injured or killed, or have their jobs terminated before a union vote, then an irreversible violation has already occurred. The goal of trade unions is always to reach an agreement, not to scuttle a project. However, to succeed in resolving issues and reaching an agreement, timely engagement is necessary. To that end, it is vitally important that the IFC imposes timelines for each step of the complaint, review, and monitoring process, and either holds to the timeline or escalates the issue if a timeline is not being met.

RIGHTS AT WORK

The freedom of association and the right to collectively bargain are not only crucial for compliance with the performance standard but are key for realising the development impact of a project. The IFC should strive to expand the protections of its safeguards to all project workers, while ensuring that international labour norms are respected on the worksites it finances.

National law and the IFC's policies: National law on workers' organisations should be a floor, not a ceiling. The additionality of development finance comes not only from preferable terms

of investment, but from the application of standards that help projects succeed in their development goals. To that end, as opposed to the current language in Paragraphs 13 and 14 that simply refers to national law, the IFC should adopt clarifying language from the African Development Bank's Integrated Safeguard System: "The provisions of national law are the minimum requirements for compliance by the Borrower: they shall not be construed as a ceiling on project workers' terms and conditions of employment, including those specified in the [Labour Management Procedures]."¹³

Realising the Freedom of Association: This report outlines how a failure to bring trade unions and employers together in a way that allows workers to exercise their rights has led to persistent violations of the performance standards and undermined the IFC's ability to manage risk and guarantee compliance on its projects. This can be addressed through proposals such as the Early Engagement Labour Framework Agreement that has been proposed for the hospitality sector.

Retaliation: Employer retaliation against workers who exercise their labour rights is commonplace in many countries. Retaliation against a single employee can violate the collective rights of all other workers on a project in irreparable ways: for example, by rigging a trade union election and intimidating other workers. This not only makes enforcement of any labour rights nearly impossible but undermines the development impacts of the project by rewarding noncompliance and suppressing working conditions. The IFC should require the immediate reinstatement of employees who face retaliation and disincentivise such chilling retaliation by employers to unequivocally restore the exercise of workers' rights before it is too late.

Wages: In light of the ILO decision this year to advance a living wage policy, finding that decent wages “play an essential role in reducing poverty and inequality and ensuring a decent and dignified life,”¹⁴ the IFC should explicitly promote wage standards on its projects. To this end, it could follow the European Bank for Reconstruction and Development’s (EBRD) requirement that “Wages, benefits and conditions of work offered should, overall, be comparable to those offered by equivalent employers in the relevant region of that country/region and sector concerned. Where the client is a party to a collective bargaining agreement or is otherwise bound by it, such an agreement will be respected.”¹⁵

Moreover, to combat wage theft and promote transparency, wages should always be paid with itemised wage slips.

Violence and harassment: In light of the ILO’s adoption of Convention No.190 against Violence and Harassment, and its entry into force, the IFC must bolster its protections for workers against violence and harassment, currently confined to limited components of the Safeguard. The EBRD’s 2019 policies, for example, adopt specific protections against gender-based violence and sexual harassment and violence in workplace accommodations.

Policy coverage: The Sustainability Framework should protect as many project workers as possible across the supply chain.

- Contracted workers should be covered by the standards of PS2, but the current text provides myriad ways for them to fall through the cracks. Even if the employer is not the IFC’s client, the standards – which reflect international norms – should not be different.

- Contracted workers need coverage from PS2’s retrenchment policy, though they are currently exempted. Cases of contractors disappearing during a project, leaving outstanding debts to workers are too common to ignore, and these workers need accountability.
- For supply chain workers, the IFC should protect all fundamental rights of workers including freedom of association, collective bargaining, non-discrimination, and equality of opportunity rather than selectively protecting certain rights. Moreover, “significant safety issues” should be expanded to include occupational safety and health risks more broadly, in keeping with an expanded Occupational Safety and Health (OSH) focus throughout the policy.

OCCUPATIONAL SAFETY AND HEALTH

In the IFC’s 2012 Performance Standards, OSH issues are included in a small part of PS2 (Section 23), whereas PS4 provides only for Community Health, Safety, and Security. As multilateral banks have subsequently released their own policies, some have given occupational safety and health its own standard (see the EBRD’s PR4, and the proposed policy of the Asian Development Bank). This is particularly important considering the ILO’s decision in 2022 to include the right to “a safe and healthy working environment” among its fundamental principles and rights at work.¹⁶

Recent historical events have underscored the importance of this fundamental right. The Covid-19 pandemic, climate change, and new understandings of the dangers of heat exhaustion all point to the need for explicit OSH protections for workers.

¹⁴ “ILO reaches agreement on the issue of living wages,” ILO, 15 March 2024 <https://www.ilo.org/resource/news/ilo-reaches-agreement-issue-living-wages>

¹⁵ EBRD Performance Requirement 2, Paragraph 12

¹⁶ <https://www.ilo.org/topics/safety-and-health-work/safe-and-healthy-working-environment-fundamental-principle-and-right-work>

Health and Safety Committee: The Performance Standard should provide for a mandatory health and safety committee with balanced representation elected by the workforce, as well as workers' safety representatives, again elected by the workforce. Balance and representativeness are the only way to ensure effective representation for workers' health and safety on IFC projects. If an elected committee or trade union already exists, it should not be undermined by the formation of a new committee, nor should it interfere with any existing collective bargaining agreement.

Workers must be able to refuse work that presents an imminent or serious risk to health. This protection intersects with PS2 with respect to retaliation and non-discrimination. The World Bank's ESS2 provides a positive example on this issue, and we hope the IFC can further improve upon it.

Asbestos: The health risks of asbestos to workers are abundantly clear. Following international best practices and the example set by other peer institutions, the IFC should not finance any projects that use it.

Overtime and excessive hours present not only a safety hazard, but also a forced labour issue

and should be regulated by the performance standard. Overtime should be officially agreed to by workers with written confirmation and should not exceed national standards. Excess overtime should never be permitted, including consistent scheduling of overtime work.

Necessary OHS measures, including **PPE and vaccinations**, should be provided at no cost to the worker.

Worker accommodations should be required to meet minimum standards, and at a minimum, national law and ILO standards should be explicitly upheld. However, to avoid ambiguity, the text on both worker accommodations and worker welfare facilities should be specific: welfare facilities should be well-ventilated and protected from extreme temperatures, with free and unrestricted access to wholesome drinking water. Accommodations should be safe, hygienically clean, and appropriate for workers of all genders. Quarters must be provided in a manner consistent with non-discrimination and equal opportunity, including safeguards against sexual harassment and other forms of gender-based violence and harassment (GBVH). Workers' freedom of movement to and from the employer-provided accommodation must not be unreasonably restricted.

CONCLUSION: BETTER POLICIES, BETTER DEVELOPMENT

Trade unions believe in development finance because the enormous challenges our members face require significant investment to overcome. The World Bank recognises that jobs are essential to development; but these

investments will only drive sustainable and equitable development if they create decent work. To that end, the IFC's Performance Standards and Sustainability Framework are crucial to its development impact. A project in which an employer illegally retaliates against

its employees, terminates workers without notice, steals compensation, or puts the safety and lives of employees and their families at risk is a harmful project, and it is corrosive to its community and economy. By channelling capital to the right borrowers and projects, the IFC can create an ecosystem of responsible private sector employers in places and industries that may not have had them before. This mandate to invest in long-term development impact is what sets development finance institutions apart from other lenders.

The IFC's unique catalytic role in the global private sector positions it to lead not only in size and scale, but in positive development impact. However, it will not achieve its goals without the right policies and their rigorous implementation. The history of the IFC – notably its early adoption of performance standards for project workers and its leadership role among development finance institutions – shows

that it can reform, learn, and be a leader in responsible investment. Unfortunately, despite initial promise, the implementation of the IFC's protections for workers on its projects has been lacking. While early engagement with trade unions and clients has secured substantial gains for workers in certain cases, those have been the exception. Frequently, workers have found it impossible to meaningfully address labour rights violations on IFC projects.

The forthcoming review of the IFC's Sustainability Framework is an opportunity for the institution to change direction, strengthen its policies to deal with the challenges it has found, and improve its practices moving forward to ensure they are enforced. In doing so, it will promote better jobs, better projects, and greater impact.

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