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Gregory Berry

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Recommended Citation

Berry, Gregory, "Ending Violence in Development Finance Actions to Affirmatively Prevent and Stop Reprisals Against Rights Defenders" (2023). *Perspectives*. 7.
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Ending Violence in Development Finance Actions to Affirmatively Prevent and Stop Reprisals Against Rights Defenders

Greg Berry, Policy Associate, Accountability Counsel

In January 2016, the United Nations Sustainable Development Goals (SDGs) officially came into force, commencing a global push to end poverty, respond to climate change, and meet a range of environmental and social targets to secure a sustainable future.¹ Rooted in the imperative to “foster equitable social development and inclusion,”² the sixteenth SDG is a covenant to significantly reduce all forms of violence, promote the rule of law, and ensure responsive, inclusive, participatory and representative decision making at all levels.³ Multilateral Development Banks (MDBs) expressed full support of the SDGs as they sought trillions in capital increases to implement the agenda.⁴

“She multiplied”

Three months after the launch of the SDGs, Berta Cáceres, a prominent Lenca indigenous and environmental rights campaigner, was assassinated in her home in La Esperanza, Honduras.⁵ The Inter-American Commission on Human Rights (IACHR) strongly condemned the killing, noting a documented history of harassment and death threats against her for organizing efforts to protect the Gualcarque River in Honduras from the internationally financed Agua Zarca hydroelectric dam project.⁶ In 2021, both the ex-CEO and the Director of Environmental and Social Development from the dam construction firm were found guilty of helping to coordinate her murder.⁷

¹ G.A. Res 70/1, Transforming our world: the 2030 Agenda for Sustainable Development : resolution / adopted by the General Assembly, (Oct. 21, 2015), https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf.

² G.A. Res 66/288, The Future We Want : resolution / adopted by the General Assembly, at para. 4, (27 July 2012) (The Future We Want is the outcome document of the June 2012 UN Conference on Sustainable Development [Rio+20], and a foundational document for the 2030 SDGs), <https://sustainabledevelopment.un.org/futurewewant.html>.

³ UN Department of Economic and Social Affairs: Sustainable Development, Sustainable Development Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable, and inclusive institutions at all levels, <https://sdgs.un.org/goals/goal16>.

⁴ See Statement by the Heads of the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the European Investment Bank, the Inter-American Development Bank, the World Bank Group and the International Monetary Fund, *From Billions to Trillions – Transforming Development Finance Post-2015 Financing for Development: Multilateral Development Finance* (16 Apr 2015), available at <https://www.iadb.org/en/news/announcements/2015-04-16/joint-statement-by-mdbs-on-financing-for-development%2C11140.html>.

⁵ The Goldman Environmental Prize, *2015 Goldman Prize Winner, Berta Cáceres* (2015), <http://www.goldmanprize.org/recipient/berta-caceres/> (last visited Oct. 16, 2023)

⁶ Inter-American Commission on Human Rights, *IACHR Condemns the Killing of Berta Cáceres in Honduras* (Mar. 4, 2016), ORGANIZATION OF AMERICAN STATES, https://www.oas.org/en/iachr/media_center/preleases/2016/024.asp.

⁷ Reuters, *Honduras Court Convicts Ex-Dam Executive in Murder of Celebrated Environmentalist*, THE NEW YORK TIMES (Jul. 5, 2021), <https://www.nytimes.com/2021/07/05/world/americas/honduras-Berta-Caceres-murder.html>; Elisabeth Malkin, *Seven Convicted in Killing of Prominent Honduran Environmentalist*, THE NEW YORK TIMES (29 Nov 2018), <https://www.nytimes.com/2018/11/29/world/americas/honduras-bertha-caceres.html>.

Just weeks after the assassination, Berta's daughter, Laura Zúñiga Cáceres, spoke of the inspiration of her mother's legacy at a U.S. congressional briefing.⁸ I attended the briefing as a law student just beginning a career as a global justice advocate. As I listened through a translation headset, I heard a clear mandate for all who pursue just, inclusive, and rights-based approaches to development:

*Berta Cáceres, my mother, is not dead. She multiplied. So it is our job, everyone whose lives she touched in some way, to continue multiplying her.*⁹

Berta Cáceres fought for indigenous peoples to be included in development decisions. Her activism was the epitome of SDG 16, but the global commitment alone did not protect her rights or life. Even now, the words of SDG 16 cannot protect the safety of Berta's family and associates.¹⁰ Many MDBs and other development finance institutions (DFIs) have since published statements and policies asserting zero tolerance for reprisals against whistleblowers and rights defenders, but again the words on paper have not ended violence against people who have demanded accountability for internationally financed projects.¹¹

Not enforcing a zero-tolerance policy demonstrates tolerance. If DFIs take the hopeful vision of a just and inclusive transition to a sustainable future seriously, they must act affirmatively to cut at the roots of reprisals. Two essential changes are needed. First, Independent Accountability and Audit Mechanisms must be empowered to protect the safety of defenders by self-initiating investigations where there are credible concerns of reprisals, and by accepting anonymously submitted complaints. Second, DFIs must evolve to grow teeth for enforcing measures against retaliatory acts. Perhaps this year, the 25th anniversary of the UN Declaration on human rights defenders,¹² will be the year that the legacy of Berta Cáceres and countless other rights defenders are honored and multiplied by true *anti*-reprisal efforts.

⁸ Center for Economic and Policy Research, *U.S. Congressional Briefing: The Assassination of Berta Cáceres and Ongoing Killings and Attacks Targeting Social Activists in Honduras*, YOUTUBE (23 Mar 2016, 9:00–10:30 am, Rayburn House Office Building), <https://www.youtube.com/watch?v=dt17Zbujk0U>.

⁹ Rebecca Watts, *Congressional Briefing: The Assassination of Berta Cáceres and Ongoing Killings and Attacks Targeting Social Activists in Honduras*, CENTER FOR ECONOMIC AND POLICY RESEARCH (Mar. 30 2016), <https://cepr.net/congressional-briefing-the-assassination-of-bertha-caceres-and-ongoing-killings-and-attacks-targeting-social-activists-in-honduras/>.

¹⁰ Inter-American Commission on Human Rights (IACHR), *Precautionary Measures No. 405-09 and 112-16, Berta Isabel Cáceres, her nuclear family, members of COPINH, et al. regarding Honduras*, IACHR Res. 88/2021 (15 Nov 2021) (finding serious and urgent risks of irreparable retaliatory harm to members of Berta's family and the organization she co-founded, five years after Berta's passing), https://www.oas.org/en/iachr/decisions/mc/2021/res_88-21_mc_405-09_112-16_hn_en.pdf.

¹¹ See, e.g., Dalile Antúnez, *Wearing Blinders: How Development Banks are Ignoring Reprisal Risks*, Coalition for Human Rights and Development (June 2022), <https://rightsindevelopment.org/wearing-blinders/>; see also, Eva Hershaw et al, *Uncovering the Hidden Iceberg*, ALLIED DATA WORKING GROUP (Apr. 22 2022) <https://www.landcoalition.org/en/resources/uncovering-the-hidden-iceberg/>, (finding alarming patterns of non-lethal attacks, including threats, harassment, smear campaigns, and stigmatization against indigenous peoples, land and environmental defenders).

¹² G.A. Res 70/161, Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and

The State of “Zero-tolerance” Policies

Reprisals, which encompass threats, killings, and other forms of violence against rights defenders, are becoming increasingly widespread in development finance contexts,¹³ and evidence indicates that serious instances are most likely underreported due to a lack of systematic monitoring and fear of further reprisals.¹⁴ The upward trend is evident despite several DFI zero-tolerance commitments.¹⁵ The independent accountability mechanisms (IAMs) of many DFIs have developed policy guidance to implement zero-tolerance commitments, but they consistently assert a lack of influence and resources to enforce against reprisals.¹⁶ A toolkit endorsed by a network of

Fundamental Freedoms : resolution / adopted by the General Assembly, (Feb. 10, 2016), <https://www.refworld.org/docid/56dd31954.html>.

¹³ See Global Witness, *Standing Firm: The Land and Environmental Defenders on the Frontline of the Environmental Crisis*, GLOBAL WITNESS (Sep. 2023), <https://www.globalwitness.org/en/campaigns/environmental-activists/standing-firm/>; Office of the United Nations High Commissioner for Human Rights [OHCHR], *Remedy in Development Finance: Guidance and Practice*, at 30 (2022), <https://www.ohchr.org/sites/default/files/2022-03/Remedy-in-Development.pdf>; World Bank Inspection Panel, *Right to Be Heard: Intimidation and Reprisals in World Bank Inspection Panel Cases* (Dec. 2021), https://www.inspectionpanel.org/sites/default/files/publications/Emerging-Lessons-Series-07-Intimidation-and-reprisals-in-IPN-Cases-Dec2021_0.pdf, (documenting increased reprisal allegations raised in complaints); Global Witness, *Defending Tomorrow: The climate crisis and threats against land and environmental defender*, GLOBAL WITNESS (Jul. 2020), <https://www.globalwitness.org/en/campaigns/environmental-activists/defending-tomorrow/>; Coalition for Human Rights in Development, *Uncalculated Risks: Threats and attacks against human rights defenders and the role of development financiers*, COALITION FOR HUMAN RIGHTS IN DEVELOPMENT (May 2019), available at <https://rightsindevelopment.org/uncalculatedrisks/>.

¹⁴ See Alliance for Land, Indigenous and Environmental Defenders [ALLIED], *A Crucial Gap: The Limits to Official Data on Attacks Against Defenders and Why It’s Concerning*, INTERNATIONAL LAND COALITION (Jul. 12, 2021), <https://www.landcoalition.org/en/resources/a-crucial-gap-the-limits-of-official-data-on-attacks-against-defenders-and-why-its-concerning/>.

¹⁵ See, e.g., International Finance Corporation [IFC], *Position Statement on Retaliation Against Civil Society and Project Stakeholders* (Oct. 2018), <https://www.accountabilitycounsel.org/wp-content/uploads/10518-ifc-position-statement-on-retaliation-and-threats-of-reprisals.pdf>; European Bank for Reconstruction and Development [EBRD], *Statement on Retaliation Against Civil Society and Project Stakeholders* (Jan. 2019), <https://www.ebrd.com/documents/strategy-and-policy-coordination/ebrd-statement-on-retaliation.pdf>; The World Bank, *World Bank Commitments Against Reprisals*, THE WORLD BANK (Mar. 2020), <https://www.worldbank.org/en/projects-operations/environmental-and-social-framework/brief/world-bank-commitments-against-reprisals>; InterAmerican Development Bank Group (IDB), *Environmental and Social Policy Framework*, para. 7.2 (Sep. 2020), available at <https://www.iadb.org/en/mpas>.

¹⁶ See, e.g., The World Bank Inspection Panel, *Guidelines to Reduce Retaliation Risks and Respond to Retaliation During the Panel Process* (Mar. 2016) (“The Panel [responds to retaliation] in close coordination with the Bank’s Senior Management, recognizing that in most cases it will be necessary for Bank Management to lead the efforts”), <https://www.inspectionpanel.org/news/inspection-panel-releases-guidelines-address-retaliation>; Compliance Advisor Ombudsman of the International Finance Corporation and Multilateral Investment Guarantee Agency [CAO], *Approach to Responding to Concerns of Threats and Incidents of Reprisals in CAO Operations* (Apr. 2018), <https://www.cao-ombudsman.org/about-us/approach-reprisals> (“CAO is not an enforcement mechanism, and does not have any direct ability to physically protect complainants or safeguard people from the possible consequences of engaging in a CAO process or cooperating with CAO”); Independent Redress Mechanism of the Green Climate Fund [GCF IRM], *Supporting Operating Procedures of the Independent Redress Mechanism on Retaliation*, at 15 (Jan. 2021), <https://irm.greenclimate.fund/document/supporting-operating-procedures-irm-retaliation> (“While the IRM is committed to minimising the risks of retaliation in relation to its processes, it also recognises the limitations it faces in its ability to mitigate risks and protect those involved”); Independent Complaints Mechanism (ICM) of FMO, PROPARGO, and the Deutsche Investitions- und Entwicklungsgesellschaft (DEG), *Position Statement on Addressing Risk of Reprisals related to ICM Operations* (Feb. 2021), <https://www.proparco.fr/en/ressources/non->

IAMs serving major DFIs emphasizes this dilemma, and urges the Executive Boards of financial institutions to address the accountability gap by, among other things, (a) developing institutional policies to guide reprisal risk assessments; (b) systematically reporting on reprisals to deter future instances of retaliation; (c) appointing focal points accountable for institutional responses; and (d) including enforceable anti-reprisal clauses in loan agreements.¹⁷ Nevertheless, a majority of DFI's have yet to match their zero-tolerance commitments with anti-reprisal actions to ensure the safe use of IAMs.

Zero-tolerance policies at DFIs largely did not exist when the organization that Berta Cáceres co-founded, Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (COPINH)¹⁸ began seeking accountability from actors supporting the Agua Zarca dam project. A complaint filed by COPINH to the Compliance Advisor Ombudsman (CAO) of the International Finance Corporation (IFC) alleged serious acts of violence, including murder, against Lenca environmental defenders,¹⁹ but the CAO ultimately determined that it “[did] not have the mandate to further assess or handle the case” after ascertaining that the project was no longer being considered by an IFC-supported mezzanine fund.²⁰ As part of its assessment of the complaint, the CAO held telephonic meetings with the IFC and the mezzanine fund to understand how they understood the situation.²¹ Although there was opportunity to do so, it is unclear whether the IFC or CAO warned other implicated DFIs of the actual and potential harm to encourage a response to the violence prior to Berta's assassination.²²

[retaliation-statement-independent-complaints-mechanism-position-statement-addressing](#) (“The ICM is not an enforcement mechanism, it cannot physically protect complainants”); Asian Infrastructure Investment Bank [AIIB], *The Project-affected People's Mechanism: Rules of Procedure of the Project Affected Peoples Mechanism*, at 9.2.2, <https://www.aiib.org/en/about-aiib/who-we-are/project-affected-peoples-mechanism/how-we-assist-you/rules/index-part9.html>.

(“Neither AIIB nor the PPM is an enforcement mechanism. Consequently, the PPM is unable to physically protect or safeguard people from possible consequences of engaging in a PPM process or cooperating with PPM personnel”).

¹⁷ Inter-American Development Bank [IADB], *Guide for Independent Accountability Mechanisms on Measures to Address the Risk of Reprisals in Complaint Management: A Practical Toolkit*, at 63-73 (2019), <https://lnadbg5.adb.org/ocrp002p.nsf>.

¹⁸ See Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (English translation: “National Council of Popular and Indigenous Organizations of Honduras.”) [COPINH], <http://copinh.org/>.

¹⁹ General Coordinator, COPINH, *Letter of Complaint from COPINH to the Compliance Advisor Ombudsman* (9 Oct. 2013), https://www.cao-ombudsman.org/sites/default/files/downloads/Reclamo_CAO_October92013.pdf.

²⁰ CAO, *CAO Assessment Report: Regarding community concerns in relation to IFC's CAMIF project* (#26590), at 5 (Jan 2014), https://www.cao-ombudsman.org/sites/default/files/downloads/CAMIF_CAOAssessmentReport_Jan2014EnglishFINAL.pdf.

²¹ *Id.*, at 4-5.

²² The author was unable to find public information on these potential conversations. The CAO's Operational Guidelines in effect at the time permitted the CAO to collaborate with the IAMs of other organizations when it was “engaged in complaints” that overlapped with their jurisdictions. The Guidelines state that information sharing must be in accordance with IFC and MIGA disclosure policies “that require the confidentiality of certain business information to be respected,” and the standing Staff Rules of the World Bank Group (see CAO, *CAO Operational Guidelines*, ¶¶ 1.1, 1.4 (2013), https://www.accountabilitycounsel.org/wp-content/uploads/2017/07/CAOOperationalGuidelines2013_ENGLISH.pdf). The Staff Rules of the World Bank Group prohibit disclosure of non-public information “to any third party for any reason.” Non-public information is defined as “information generated by the Bank Group that has not been approved for release outside the Bank Group in accordance with the Bank Group's rules” (see The World Bank, *The World Bank/IFC/MIGA Staff Rules*, at 3.01, 5.01 (Dec. 2004), <https://thedocs.worldbank.org/en/doc/827331374675391404-0220012004/render/03.01STANDARDSOFPROFESSIONALCONDUCTDecember12004.pdf>).

Following Berta's murder, COPINH implored the remaining backers of the project, including the Dutch development bank FMO, the impact investor/development financier Finnfund, and the Central American Bank for Economic Integration (CABEI), to responsibly withdraw from the project.²³ It was not until one year after the UN Special Rapporteur on the Rights of Indigenous People highlighted the situation in a report that recommended revocation of the Agua Zarca project,²⁴ that FMO and Finnfund officially announced their exit.²⁵ CABEI ended its involvement nearly three years later, having paused disbursement of funds to the project in 2016.²⁶ Despite reflecting on the importance of consultation and building positive relationships with community stakeholders in an official statement announcing its withdrawal, CABEI has since been implicated in promoting at least one other project that has neglected the rights of indigenous peoples and failed to fully assess the risks of retaliation against defenders.²⁷

The failure to prevent further serious acts of retaliation is not a problem limited to a handful of institutions, but is rather a status quo that demands reform.²⁸

The change needed

The global consensus on the SDGs demands an affirmative shift toward respecting the rights of communities and supporting their safety when they peacefully assert their rights.²⁹ Doing so requires courageous reform, in which DFIs must be willing to place the priorities of project-affected communities at the same level or even above current and future business relationships and

²³ See COPINH, *COPINH demands the definitive withdrawal of the Banks that finance the Agua Zarca Project*, COPINH (21 Apr. 2016), <https://copinh.org/2016/04/el-copinh-exige-el-retiro-definitivo-de-los-bancos-que-financian-el-proyecto-agua-zarca/>; see also COPINH, *The FMO and its lying report*, COPINH (30 Sep. 2016), <https://copinh.org/2016/09/el-fmo-y-su-informe-mentiroso/>.

²⁴ Human Rights Council, *Report of the Special Rapporteur on the Rights of indigenous peoples on her visit to Honduras*, A/HRC/33/42/Add.2 (21 Jul. 2016), <https://digitallibrary.un.org/record/847080?ln=en>.

²⁵ COPINH, *COPINH communicates that FMO and FinnFund have confirmed their official exit from the murderous Agua Zarca project*, COPINH (6 Jul. 2017), <http://copinhenglish.blogspot.com/2017/07/copinh-communicates-that-fmo-and-finn.html?m=1>.

²⁶ See Central American Bank for Economic Integration [CABEI], *CABEI formalizes its definitive dissociation from the Agua Zarca Project*, CABEI (17 Apr. 2020), available at <https://www.bcie.org/en/news-and-media/news/article/cabei-formalizes-its-definitive-dissociation-from-the-agua-zarca-project>.

²⁷ See, e.g., Independent Redress Mechanism, *Compliance Review Report Case C-0006-Nicaragua (FP146: Bio-CLIMA: Integrated climate action to reduce deforestation and strengthen resilience in BOSAWÁS and Rio San Juan Biospheres)* (31 Aug. 2022), <https://irm.greenclimate.fund/sites/default/files/case/en-irm-case-c0006-final-compliance-review-report.pdf>.

²⁸ See, Rabi Thapa, *Realizing zero tolerance against reprisals: Safeguarding communities' right to be heard without fear of retaliation*, Accountability Matters Quarterly Newsletter, THE WORLD BANK (19 Jan. 2023), <https://www.worldbank.org/en/programs/accountability/brief/realizing-zero-tolerance-against-reprisals>.

²⁹ See UN General Assembly, Addis Ababa Action Agenda of the Third International Conference on Financing for Development (Addis Ababa Action Agenda): Resolution adopted by the General Assembly, at 18, A/RES/69/313 (27 July 2015), <https://www.refworld.org/docid/56dd31954.html> (“We underline the need to promote peaceful and inclusive societies for achieving sustainable development and to build effective, accountable and inclusive institutions at all levels. Good governance, the rule of law, human rights, fundamental freedoms, equal access to fair justice systems and measures to combat corruption and curb illicit financial flows will be integral to our efforts”).

competition for clients.³⁰ DFIs must strengthen support for local communities to help them understand and defend their rights using community-centered and rights-forward development models that mitigate risks of reprisals by preventing conflicts at the outset.

Reprisal risks are only growing as civic space continues to shrink.³¹ DFIs must therefore act now to improve institutional rigor and accountability for context-based reprisal risk prevention and meaningful response when risks manifest into harm.³²

Empowering IAMs to curb reprisals

Maximizing IAM safety and accessibility is critical to protecting rights defenders who rely on IAMs as a last resort for justice in contexts of shrinking or repressed civic space, or in other oppressive situations.³³ Insofar as risks of retaliation can deter project-affected people from filing complaints in these situations, IAMs must be allowed to accept and investigate complaints submitted anonymously because of grounded concerns about actual or potential retaliation. However, promises of confidentiality alone are not enough, especially considering the risks of unauthorized or accidental data breaches prevalent in the use of technology for complaints handling. Acknowledging these risks, the Social and Environmental Compliance Unit (SECU) of the United Nations Development Programme (UNDP) has offered a compelling model. SECU's "Guidelines to Managing and Responding to Risks of Intimidation and Reprisals in the Context of SECU Activity" pioneers a distinct process that promotes proactive investigation of reprisals when complaints would otherwise be considered ineligible, for example, in the case of complaints submitted anonymously.³⁴

³⁰ See Pascal Djohossou et al., *The Community-led Worldview of Systems Change: A Framework Centering Local Knowledge and Aspirations in Pursuit of Transformational Sustainability and Resilience (Part 1)*, 17 KNOWLEDGE MANAGEMENT FOR DEVELOPMENT JOURNAL : UNCOMFORTABLE TRUTHS IN INTERNATIONAL DEVELOPMENT: APPROACHES TO THE DECOLONIZATION OF KNOWLEDGE FROM DEVELOPMENT PRACTICE, POLICY AND RESEARCH (2023), <https://www.km4djournal.org/index.php/km4dj/issue/view/51>; see also, Anne-Birgette Albrechtson, *Why collaboration will be key to achieving the Sustainable Development Goals*, World Economic Forum, FUTURE OF WORK (31 Jan. 2017), <https://www.weforum.org/agenda/2017/01/realising-the-potential-of-cross-sector-partnerships/>; Joyeeta Gupta and Courtney Vegelin, *Sustainable development goals and inclusive development*, 16 INTERNATIONAL ENVIRONMENTAL AGREEMENTS: POLITICS, LAW, AND ECONOMICS, THEMATIC ISSUE: MAKING THE SDGs SUCCEED (Jun. 2016), <https://doi.org/10.1007/s10784-016-9323-z>.

³¹ See UN Human Rights Council, *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights - Report of the Secretary-General*, A/HRC/54/61, (21 Aug. 2023), <https://www.ohchr.org/en/documents/reports/ahrc5461-cooperation-united-nations-its-representatives-and-mechanisms-field>.

³² See, Coalition for Human Rights and Development, *Misplaced Trust: Why Development Banks Should Not Rely on Their Clients to Address Reprisal Risks* (Jul. 2023), <https://149805364.v2.pressablecdn.com/wp-content/uploads/2023/07/Misplaced-Trust-ENG.pdf>.

³³ See, e.g., Accountability Counsel and Arab Watch Coalition, *Our Last and Only Resort: What Happens When Development Goes Wrong in the Middle East and North Africa?* (Sep. 2022), <https://accountabilityconsole.com/stories/our-last-and-only-resort/>.

³⁴ United Nations Development Programme (UNDP), Office of Audit and Investigations (OAI), *Guideline to Managing and Responding to Risks of Intimidation and Reprisals in the Context of SECU Activity*, Annex to the UNDP, OAI, Investigation Guidelines: SECU (Draft), at 25-29 (2010), <https://www.accountabilitycounsel.org/wp-content/uploads/draft-secu-investigation-guidelines-english.pdf#page=25>.

Further, more IAMs should be empowered to self-initiate investigations and otherwise follow up on reprisal concerns raised in otherwise ineligible complaints. A few IAMs already have or are in the process of introducing these processes,³⁵ and DFIs must embrace the trend. The best way to ensure that reprisals do not get swept under the rug is to honor the independence and to trust the discernment of IAMs in their decisions to investigate. In principle, instances of reprisals threaten the integrity of reporting under the environmental and social standards that underpin development finance. IAMs should therefore be able to follow up on allegations of reprisals as a stand-alone eligibility claim, to assure accurate reporting in the service of accountability. Accordingly, where investigations confirm attempts to suppress the voices of project-affected people, IAMs must be able to recommend immediate actions, including halting loan disbursements and redesigning projects alongside community stakeholders, in order to stop threats, harassment, or violence.

Growing Teeth

For any zero-tolerance policy to work, it must be enforced and not merely encouraged. Chronologies of IAM cases reveal that DFIs continue to support clients with documented histories of suppressing rights defenders with intimidation and violence.³⁶ Failing to enforce zero-tolerance policies enables more violence, and it exposes DFIs to a host of reputational, financial, political, and potentially legal risks.³⁷

A few DFIs expressly consider instances of retaliation to be sanctionable, including through the termination of present and future contracts.³⁸ This concept must be proliferated. Some DFIs have developed practical guidance to promote context-specific screening and effective responses to

³⁵ See, e.g., Independent Recourse Mechanism of the African Development Bank [AfDB IRM], *Operating Rules and Procedures*, at 75 (iv) (Jul. 2021), <https://www.afdb.org/en/documents/independent-recourse-mechanism-operating-rules-and-procedures-january-2015-updated-july-2021>; Green Climate Fund [GCF], *Decision of the Board on updated Terms of Reference of the Independent Redress Mechanism (Revised)*, at 12 (2017), <https://irm.greenclimate.fund/sites/default/files/document/bbm-2017-10-decision-board-updated-terms-reference-independent-redress-mechanism-revised.pdf>; UNDP, OAI, *Investigation Guidelines: Social and Environmental Compliance Unit (Draft)*, at 24, 27, 37 (11 Nov 2022), <https://www.accountabilitycounsel.org/wp-content/uploads/draft-secu-investigation-guidelines-english.pdf>; International Climate Initiative (IKI), *Independent Complaint Mechanism Policy*, at §§ 2.7(b), 5 (1 Feb. 2022), https://www.international-climate-initiative.com/fileadmin/iki/Dokumente/Beschwerdemechanismus/IKI_ICM_policy_EN_202202.pdf.

³⁶ Sara Jaramillo, *Why Do Multilateral Development Banks Finance Repeat Offenders?*, ACCOUNTABILITY CONSOLE (3 Apr 2023), <https://accountabilityconsole.com/newsletter/articles/why-do-multilateral-development-banks-finance-repeat-offenders/>.

³⁷ UN Human Rights Council, *Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises*, John Ruggie, A/HRC/17/31 (21 Mar. 2011), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/121/90/PDF/G1112190.pdf?OpenElement>.

³⁸ See EBRD, *Retaliation Against Civil Society and Project Stakeholders* (Jan 2019), <https://www.ebrd.com/documents/strategy-and-policy-coordination/ebrd-statement-on-retaliation.pdf> (defining threats of retaliation as a prohibited coercive practice under the EBRD's Enforcement Policy and Procedures); AfDB, *Sanctions Procedures of the African Development Bank Group*, at 4.2(d) (18 Nov 2014), https://www.afdb.org/sites/default/files/2019/05/10/afdb_sanctions_procedures_-_november_2014.pdf (defining efforts to impair, harm, or threaten any party or the property of the party to improperly influence the actions of a party as sanctionable coercive practices).

resolve and prevent retaliation.³⁹ The next step must be to apply that guidance to their own operations. DFIs must stop offloading and start enforcing responsibility for reprisals.⁴⁰

To apply sanctions responsibly, DFIs must not default to quietly withdrawing from projects tarnished by reprisals--the Agua Zarca dam project as a prime example. Although not publishing reasons for exit may sometimes be the best approach to protect the safety of individuals, often quietly exiting without condemning abuse or supporting the rights of defenders can worsen violence if defenders are blamed for deals gone bad.⁴¹ Further, DFIs should not use the excuse of exit to deny investigation of their own actions in enabling or overlooking threats against defenders, or systemic issues that exacerbate the root causes of conflict and reprisals.⁴² Accordingly, IAMs should have a role in ensuring that zero tolerance policies are honored, and the most sensible way is by allowing them to investigate whether responses to reprisals are pursued sufficiently, responsibly, and in good faith. In this way, the responsiveness of DFI staff to safety concerns associated with projects under their supervision can be evaluated to improve performance and implementation of zero tolerance policies.⁴³

Coordination between DFIs is also critical in ensuring that reprisals do not continue when bad actors seek alternative financing in the face of sanctions. In this regard, IAMs must coordinate efforts to amplify instances of reprisals to their respective institutions to motivate unified responses to violence. Most IAM policies require general coordination with peer mechanisms, and some have developed policies to coordinate around reprisals.⁴⁴

Conclusion

Sustainable development cannot be achieved where the repression of civic space is condoned.⁴⁵ Reform and coordination is needed to fulfill the central promise of the SDGS to leave no one behind.⁴⁶ To achieve this, DFIs must ensure safe avenues to provide redress, both for unintended

³⁹ See, IFC & Inter-American Investment Corporation, *Good Practice Note for the Private Sector: Addressing the Risks of Retaliation Against Project Stakeholders* (2021), <https://www.ifc.org/content/dam/ifc/doc/mgrt/idb-invest-and-ifc-reprisals-gpn.pdf>.

⁴⁰ Coalition for Human Rights and Development, *supra* note 32.

⁴¹ *Id.*

⁴² See Coalition for Human Rights in Development, *Uncalculated Risks: Threats and attacks against human rights defenders and the role of development financiers*, at 35 (May 2019), <https://rightsindevelopment.org/uncalculatedrisks/>.

⁴³ See, e.g., United Nations Development Programme, *Policies and Procedures of Annual Performance Reviews*, “Step 3: Request additional feedback from others,” <https://popp.undp.org/procedure/annual-performance-review> (last visited 16 Oct. 2023).

⁴⁴ See, Independent Consultation and Investigation Mechanism of the Inter American Development Bank Group, *Guidelines for Addressing Risk of Reprisals in Complaint Management*, at 4.6 (2019), <https://www.iadb.org/document.cfm?id=EZSHARE-525549286-337>; UNDP, OAI, *Guideline to Managing and Responding to Risks of Intimidation and Reprisals in the Context of SECU Activity*, Annex to the UNDP, OAI, *Investigation Guidelines: SECU* (Draft), at 12 (2010), <https://www.accountabilitycounsel.org/wp-content/uploads/draft-secu-investigation-guidelines-english.pdf#page=25>.

⁴⁵ See, e.g., United Nations Sustainable Development Group, *Operationalizing Leaving No One Behind: Good Practice Note for UN Country Teams*, at 55 (2022), <https://unsdg.un.org/sites/default/files/2022-04/Operationalizing%20LNOB%20-%20final%20with%20Annexes%20090422.pdf#page=56>.

⁴⁶ UN Sustainable Development Group, *Principle Two: Leave No One Behind*, UNIVERSAL VALUES (2023), <https://unsdg.un.org/2030-agenda/universal-values/leave-no-one-behind>.

environmental and social harm and intentional abuses against rights defenders. It is the duty of all of us in the accountability community to multiply the important work of indigenous, environmental, and human rights defenders acting to inspire vigilance for the SDGs.