



Mandate of the United Nations Special Rapporteur on the right to development

Regional consultation on the practical implementation of the right to development: Identifying and promoting good practices

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My intervention will focus on my organization's work on business and human rights and the policies of financial institutions. In Brazil, like many emerging and developing countries, the activities and projects undertaken in the name of economic development can severely impact human rights, especially in vulnerable communities and groups, such as indigenous and traditional peoples and ethnic minorities.

From a human rights point of view, it seems obvious that the fundamental goal of all development financing institutions should be the pursuit of sustainable development that is inclusive and grounded in the protection of human rights. These institutions ought to make a public commitment to protecting the human rights guaranteed by international and national standards and also require that their borrowers do not violate the human rights of others nor impose on society the negative effects of their activities.

Conectas conducts monitoring and advocacy activities that are aimed at raising the accountability of institutions that finance development and at promoting reforms in the institutional and regulatory framework that governs the actions of these organizations. Given the time-limit of my intervention, I will briefly talk about two financial institutions that we have been monitoring for a couple of years.

Brazilian Development Bank (BNDES)

The first one is the [Brazilian Development Bank](#) (BNDES). Since its founding in 1952, the Brazilian Development Bank (BNDES) has played an extremely important role in the formulation and implementation of development policies and strategies for the country. Throughout its existence, the BNDES has enabled successive government economic policies, from Industrialization by Import Substitution (ISI) to the privatizations of the 1990s and through today, with the return of the state as a promoter of economic activity and social transformation marked by the rise of the middle class and reduction of poverty at historic levels. At the end of 2013, almost 75% of long-term credit to companies and 20% of all investments in Brazil were financed by the bank.

In the last two decades, the BNDES' loans reach USD 96 billion, including for Brazilian companies operating overseas. Between 1998 and 2015, the BNDES approved more than USD 15 billion for operations of service exports carried out by Brazilian engineering and civil construction companies¹.

¹ Including loans for the construction of Manduriacu Hydroelectric Dam in Ecuador (USD 90 million) and Changlla Hydroelectric Dam and Transmission Line in Peru (USD 340 million), both projects carried out by Odebrecht, a Brazilian company. See more: Conectas Direitos Humanos. "Banco Nacional, Impactos Globais: O apoio do BNDES à exportação de bens e serviços de engenharia e seus efeitos sobre o meio ambiente e os direitos humanos". <http://bit.ly/2NFx3q9>

Since 2013, Conectas has been developing research and advocacy activities aimed at mitigating the shortfall in transparency at the BNDES and making its environmental and social operating safeguards more robust.

The BNDES' lack of transparency or openness to social participation contribute to the suboptimal performance of tools for prevention, mitigation and monitoring of social, environmental and human rights impacts employed by the Bank in various stages of the project cycle. Despite the existence of a Social and Environmental Responsibility Policy, which provides tools for social and environmental risk assessment, there are numerous reports of human rights violations in the context of projects financed by the BNDES.

Much of this perception was reinforced during the process of elaboration of the report "Development for People? The BNDES Financing and Human Rights", published in 2014². The report focused on three topics: i) transparency and access to information; ii) participation of people directly affected by the projects in the planning and implementation phases; and iii) effectiveness of social and environmental guidelines and policies and respect for human rights. Finally, we proposed a set of recommendations to BNDES, including:

- Adopt a Human Rights Policy that covers all the rights guaranteed by the Brazilian Constitution of 1988, the international treaties ratified by Brazil and other international human rights standards;
- Conduct human rights impact assessments in of all its operations, including securities market transactions and environmental and social funds;
- Make changes to the workings of its Ombudsman's Office, allowing it to hear grievances and complaints from victims and affected parties through clear, transparent and democratic procedures;
- Be more transparent in the disclosure of institutional information and data produced throughout the cycle of the project, and establish institutionalized forums for civil society participation in the allocation of the public funds handled by the bank.

The New Development Bank (NDB)

My second case is the [New Development Bank](#) (NDB), also known as BRICS Bank. The NDB was created in 2015 by the BRICS countries (Brazil, Russia, India, China and South Africa) to finance infrastructure projects in emerging and developing nations. Between 2017 and 2021, the bank will be in the implementation stage of its strategy.

Conectas has been closely following the political and institutional processes involved in the implementation of the NDB in order to assure that the bank's commitment to human rights is in place from the very first loan payment. Together with its partners, Conectas has also been working to offer recommendations to define criteria for assessing the sustainability of projects financed by the bank.

In this effort, we published in 2017 the report "Building infrastructure for 21st century sustainable development: lessons and opportunities for the NDB", in partnership with Center for African, Latin American and Caribbean Studies of the School of International Affairs at O.P. Jindal Global University (India) and Fudan University (China)³. The main objective of the report is to serve as the starting point for the future definition of criteria for assessing the sustainability of the NDB's projects, considering the implementation of the Strategy for 2017-2021 and beyond.

² Conectas Direitos Humanos. "Development for People? The BNDES Financing and Human Rights". <http://bit.ly/2NE6Bgv>

³ Conectas Direitos Humanos. "Building infrastructure for 21st Century sustainable development: Lessons and opportunities for the BRICS-LED News Development Bank". <http://bit.ly/2NDDD06>

More recently, following the strategy to engage in policy-making of the NDB, we released three months ago a report entitled “A Country System and Social and Environmental Safeguards in Development Institutions”⁴, at the third Annual Meeting of the New Development Bank (NDB) in Shanghai, China. The aim of the study is to discuss the approach of financial institutions to a Country System in terms of social and environmental safeguards and to examine how the NDB can help to hone legal standards and local skills to ensure the sustainability of infrastructure projects.

To conclude my intervention, I would like to point out some practical recommendations extracted from our activities related to the monitoring of financial institutions and policy-making aligned to the right of development:

- Engagement in spaces of participation of state-owned and multilateral financial institutions, including public hearings and ombudsman meetings, as a way to mitigate the transparency deficit of these institutions and to question, from an insider point-of-view,, the lack of participation of civil society and affected communities.
- The importance of coalitions - local, national, regional and international -, creating space to exchange information, strategies and mobilizations, taking into account that financial institutions’ activities go beyond national borders.
- Use of global and regional human rights protection systems to raise awareness of violations of the right to development, through urgent appeals to United Nations special procedures (preferably in a cross-cutting approach), engagement in public consultation processes (allowing contributions to the construction of international standards based on national experiences) and requests for public hearings at the Inter-American Commission on Human Rights, especially after the establishment of the Special Rapporteurship on Economic, Social, Cultural and Environmental Rights.

Thank you.

⁴ Conectas Direitos Humanos. “Country Systems and Environmental and Social Safeguards in Development Finance Institutions”. <http://bit.ly/2NDDTfA>