



# “Missing Peoples” at IFC

IFC’s limited application of Performance Standard 7 (PS7) on indigenous peoples is missing dozens if not hundreds of communities

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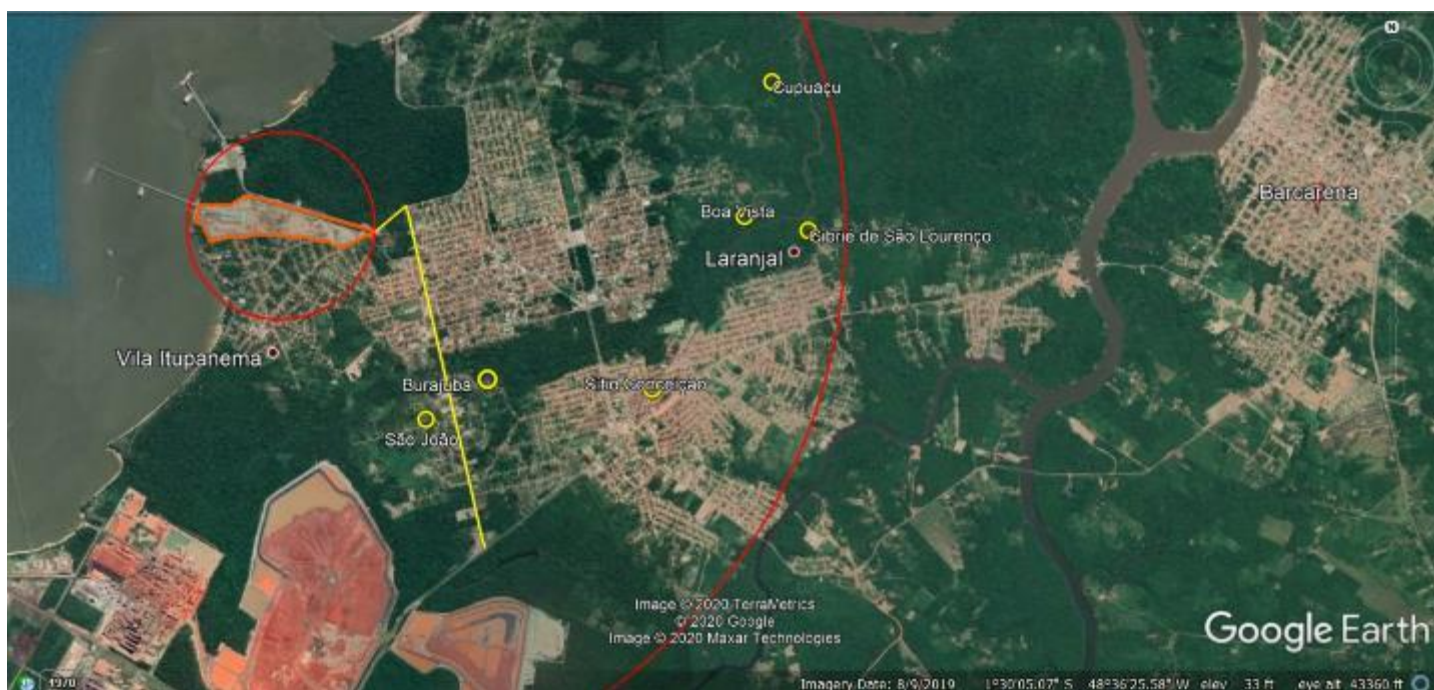
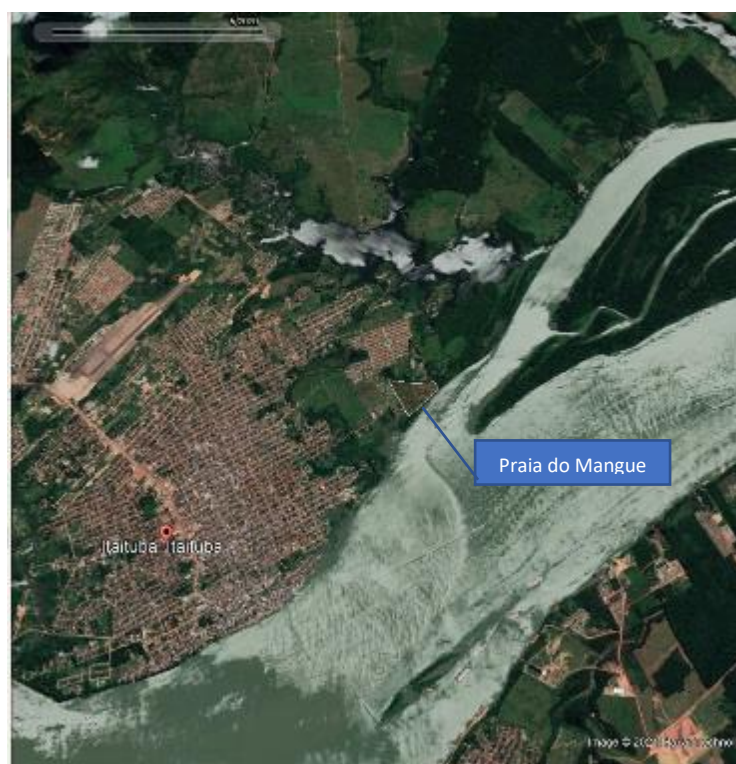


Figure 1- Map of quilombola communities in relation to Hidrovias do Brasil's Vila do Conde port near Barcarena, Pará State (Credit: Google Earth)

## IFC's Missing Indigenous Peoples

Pedro (a pseudonym) is old now, and when a foreign researcher interrupted him from ditch-digging, he looked half-grateful for the break and half deeply forlorn to lose minutes of the early morning, before the Amazonian swelter set in. He had moved here several months ago, after spending a few years with his children in the urban core of the port neighborhood of Itupanema, Barcarena. But city living has never been for him, so when the formerly forested “neighborhood” of Burajuba started selling plots, he happily bought in. Authorities have told him he does not own the land, but he knows he paid for it, so he does not intend to leave. Not this time. He has been pushed off his ancestral lands three times now for corporate development projects, most recently by an IFC-financed port owned by Hidrovias do Brasil, HDB. All the land, he and his neighbors note, is their ancestral land. Before military-sponsored evictions in the 1980s and 1990s for the aluminum industry (also World Bank-backed, and visible in the bottom left of Figure 1), this was the indigenous territory of a mix of riverine communities that fished the great Pará and Tocantins Rivers and tribal quilombola peoples, with a small Portuguese-descendant religious community on the bay. Pedro believes that he'll be safe this time, because Burajuba has state certification as a recognized, protected, tribal afro-descendant *Quilombola* community. He believes he can return to traditional living now.



But Burajuba's status is exactly the same now as it was when HDB installed its port, designated to "unlock waterway transport in Brazil to open trade for inland areas," in IFC's description. That status did not protect Burajuba from the effects of the relentless soy truck traffic that now passes a stone's-throw from where he built his newest home. The port's impact evaluation was scoped only to the literal port zone itself; not to the river, not to the Amazonian roads it connects to international markets, and certainly not to the indigenous and tribal communities whose ecological resources and cultural cohesion are directly threatened. Even that narrowly defined footprint displaced indigenous peoples that IFC did not, for technical reasons, acknowledge. In 2004, the city zoned the community's entire indigenous fishing grounds of Itupanema village for industrial uses. HDB purchased the territory for its port under these conditions. But, while the land was zoned as industrial, it was still inhabited by community members who had not been successfully removed. By the time of HDB's purchase, these traditional landowners were dismissed as "illegal residents." HDB paid for their relocation, becoming the ultimate cause of removal for indigenous communities, directly benefitting from the rezoning of their territory without ever acknowledging their indigeneity.<sup>i</sup>

In fact, there are at least seven *quilombola* communities within five kilometers of the Barcarena port. The HDB port necessitated the removal of households from port lands and the establishment of a major trucking route within one kilometer of two *quilombolas* (yellow in the figure, adjacent to Sao Joao and Burajuba), neither of which have been identified in IFC client documents or acknowledged in IFC summaries.<sup>ii</sup>

Soy trucks accessing the port have damaged the access road so severely that the *quilombola* community west of the road has lost at least temporary access to education and health facilities.<sup>iii</sup> During a February 2019 visit to the area, the local school was contemplating eliminating bus services for the children of Sao Joao and neighboring communities, because roads were so damaged.

Figure 2 Encroachment onto Praia do Manguê fishing, foraging and hunting grounds from its indigenous designation (1986) to present (Google Earth 2021)



This was not the only HDB installation financed under the IFC loan that harmed indigenous lands, livelihoods and cultures. A second HDB port, 250 km inland at Itaituba, on the Amazon tributary Cupari River, now sits directly facing the Munduruku community in Praia do Mangue (Mango Beach). Praia do Mangue is one of Brazil's oldest indigenous reserves, protected since 1986. As their community's name suggests, they had lived off of foraged fruits and forest game and netted fish. But the Brazilian state only designated their *homes* as protected, leaving the forest and rivers open for 'development.' Between the community's establishment as a reserve (1986) and the implementation of HDB's port (2020), the forestland available to the community was reduced by roughly 90% (Fig. 2). Since hunting has been restricted by population influx and forest degradation, fishing has become vital. But the ports render the Munduruku fisherfolk's most effective methods, seine and gill nets, unproductive.<sup>iv</sup> The nets have been shredded by barges and the migratory patterns of fish have shifted. The Munduruku also fish the shallow water's edge, where fruits fall from the trees into rocky river outcroppings and fish come to eat the fruit. Hidrovias do Brasil's river contouring activities is one of several development activities shifting these dynamics and eliminating the fish.<sup>v</sup>

HDB did not apply the IFC's Indigenous Peoples Performance Standard, PS7, at these ports, whose inland impacts supporting soy and palm oil expansion remain totally unexamined. The projects went forward as though the land and resources were readily available for sale and purchase. Legally, of course, they *were* for sale. The Brazilian government has, like most states, established rules that limit the protections indigenous and tribal peoples can access, almost everywhere they exist. At these ports, Brazilian authorities had different tactics for each. In Itaituba, they authorized port development not *atop* indigenous lands but directly across the river. In Barcarena, they relied on the displacements from the previous decade and an extremely narrow definition of project footprint to avoid evaluating impacts on the people of Burajuba and neighboring tribal communities. IFC's Performance Standards are designed to go beyond the law, however, establishing a consistent global best practice across geopolitical contexts.

This report examines the procedural and substantive gaps in PS7 evaluation that have left dozens, if not hundreds, of indigenous communities like Praia do Mangue and Burajuba vulnerable to exploitation in IFC investments.





## Introduction: Why is PS7 the least-frequently applied Performance Standard?

Between 2012 and 2020, the World Bank's private lending arm, the International Finance Corporation (IFC) flagged 47 projects for review of potential indigenous peoples impacts using its Performance Standard 7 (PS7) and nominally applied it at 29. Part I of this series found that IFC restricted application of PS7 to exclude indigenous rights to Free, Prior and Informed Consent (FPIC) regarding activities that would impact them. IFC only publicly documented one FPIC consent agreement out of those 29 projects.<sup>vi</sup> IFC's narrow application of PS7 reflects a limitation in IFC clients' understanding of impacts as experienced by indigenous peoples. If IFC can find so few communities eligible for the established right to FPIC incumbent upon economic, physical and cultural dislocation, even where impacted peoples are identified, is there reason to question whether IFC is applying its PS7 safeguard with adequate *frequency*, given its demonstrated inadequate *fulsomeness*?

While IFC has financed projects in 67 nations with indigenous peoples, it has only applied PS7 in 10 of those countries.<sup>vii</sup> PS7 was applied in only 29 projects, out of more than 700 Category A and B financed projects in countries with recognized indigenous populations. Indigenous peoples steward nearly a quarter of the earth's territory, are among the poorest and most conflict-affected populations at

the sub-national level, and generally are characterized by natural resource-based livelihoods. Given that IFC actively commits to "expanding" its activities "where poverty and fragility are greatest" by strengthening "industries linked to productivity, growth and job-creation" in rural areas,<sup>viii</sup> is it realistic that IFC's investments would touch on so little of this land?

To consider these questions, we reviewed the IFC's full portfolio of Category A and B projects from January 2012 to May 2020 and implemented successive screens to identify potential or likely PS7 projects. This involved reading project summaries and documentation as well as reviewing external data, from geolocation on Google Earth to academic and advocate literature.

IFC has made 1010 investments in Category A and B projects since 2012; 729 are in countries with recognized indigenous communities. Of those, 561 were located in rural or greenfield sites. Urban zones and brownfield sites were excluded on the premise that these territories may have impacted indigenous peoples in the past but they would not directly link the immediate project financing to the impacts on those peoples.<sup>ix</sup> Of the retained 561, nearly 60 were located in regions where indigenous peoples are confirmed not to be present (e.g. Lagos region of Nigeria; lowlands

regions of Honduras). That leaves 502 projects located in countries where indigenous peoples are present, in rural or greenfield sites characteristic of indigenous livelihoods, in regions where the presence of indigenous peoples was not actively ruled out through any public documentation. If PS7 was potentially applicable on 502 projects and IPs were confirmed potentially at risk on at least 125, why was it only considered on 47 and applied on 29?

IFC is not directly responsible for Performance Standard adherence, but its Sustainability Framework mandates that it "seeks to ensure, through its due diligence, monitoring, and supervision efforts, that the business activities it finances are implemented in accordance with the requirements of the Performance Standards. As a result, the outcome of IFC's environmental and social due diligence of a proposed business activity is an important factor in its approval process, and will determine the scope of the environmental and social conditions of IFC financing." This language is critically important because it necessitates that IFC have the expertise on staff to adequately evaluate indigenous risks in order to correctly determine the applicability of PS7 on a project-by-project basis.<sup>x</sup> Absent this competency, IFC will struggle to comply with its own Sustainability Policy, let alone support its clients in adherence to the Performance Standards.



Country	Project	Invested	Filed	Concerns	
Mongolia	<a href="#">Oyu Tolgoi-01/Southern Gobi</a>	2012	2012	Indigenous rights, lands, water	
Mongolia	<a href="#">Oyu Tolgoi /Southern Gobi</a>	2012	2013	River diversion to affect nomadic livelihoods and cultural heritage on sacred river	
Malaysia	<a href="#">Bilt Paper-01/Sipitang</a>	2014	2014	Water quality, land acquisition, biodiversity	
Guatemala	<a href="#">Real LRIF-01/Coban</a>	2012	2014	Impacts on water, livelihood, indigenous peoples, lack of consultation and E&S due diligence	FI
Indonesia	<a href="#">Wings-01/Long Beluah and Long Lian</a>	2012	2018	Environmental harm, indigenous forest removal without community consent	
Kenya	<a href="#">Delonex and Africa Oil-01/Kerio Valley</a>	2013	2019	Lack of stakeholder consultation, PS7 impacts on lands, livelihood & environment.	
PNG	<a href="#">AES PNG-01/Roku Village</a>	2014	2014	Land loss of tribal population, inadequate due diligence and consultation	
Cambodia	<a href="#">TPBank and VPBank-01/Ratanakiri</a>	2016	2019	Loss of land, compensation, impacts on cultural practices, water sources, lack of information and consultation	FI
Myanmar	<a href="#">Myanma Awba Group Company Ltd</a>	2016	2017	Water, community health, community consultation/stakeholder engagement, information disclosure, PS7 appraisal	
Panama	<a href="#">PL IV-01/Multiple locations</a>	2017	2018	Lack of consultation, violation of indigenous peoples' rights, A destruction of biodiversity	

## Procedural and Substantive Barriers to Applying PS7

IFC has argued that PS7 is infrequently implemented because it is rare for the institution to invest in projects that affect indigenous peoples. This is a difficult claim to evaluate without intimately understanding the IFC's project appraisal processes, which are confidential. IFC's Access to Information Policy prevents researchers from accessing the Bank's deliberations over the applicability of various performance standards, and public reporting has been inconsistent across regions, industries and years, making rigorous quantitative analysis impossible.

Nevertheless, a detailed review of IFC's full Category A and Category B investment portfolio reveals patterns in the decisions made by IFC and clients for bypassing PS7. These decisions can be described as *procedural* in some circumstances, where the processes by which performance standards are evaluated are not fit-for-purpose for evaluating indigenous peoples. In other cases, they can be described as *substantive*, where application of PS7 would cause problems for the client, legally or logistically, and is bypassed to avoid the outcomes of an indigenous review that could potentially jeopardize its standing in the country. This latter category



can only be defined when documentation from the project indicates that a PS7 review is appropriate and then a decision is made not to implement that guidance. A third set of projects cannot be easily characterized as either procedural or substantive because there is too little information about the project to enable a determination. These include projects where indigenous peoples were acknowledged in previous investments with the firm but disappear from project appraisal in later re-investments, as well as projects where IFC documentation unilaterally but incorrectly states that the host country has “no indigenous peoples.”

These categories are based on determinations made by IFC’s external oversight office, the Compliance Advisor and Ombudsman (CAO) in reviewing complaints made regarding the mistaken exclusion of PS7 from project evaluation. Several CAO complaints are elaborated below, but the table here presents 10 CAO

complaints pertinent to indigenous peoples under the 2012 PSs.

Projects marked red in the far-right column did not apply PS7, triggering community complaints. Projects marked yellow nominally applied PS7 but not to the satisfaction of communities. Projects labeled A were Advisory Services and projects labeled FI were investments in Financial Intermediaries (which, as indirect investments, do not document the applicability of specific Performance Standards or overall or adherence to them).

These are known cases where PS7 was missed or misapplied. However, there is often a lag time between the IFC’s investment in a project and a community’s filing of a complaint. On average, complaints to the CAO are not filed until four years after a project is invested.<sup>xi</sup> Indeed, none of these ten PS7-related cases involved investments made after 2017. The CAO complaints provide additional insight into the adequacy of IFC’s PS7

application from a quantitative standpoint. The CAO has fielded and reported on 42 complaints against IFC projects carried out under the 2012 Performance Standards between 2012 and June 2020. Of these, indigenous issues were raised directly in 10 (25%). Two of these projects applied PS7 but claimants asserted that IFC clients applied it inadequately (Bilt Paper and Delonex/Africa Oil). One was an Advisory Project and thus left IFC little leverage to require implementation of the Performance Standards. Two were carried out through Financial Intermediaries. In the remaining five complaints, pertaining to four clients, self-identifying indigenous peoples claimed that their indigenous rights were overlooked, and IFC documentation confirms that no PS7 was applied. This small number is meaningful, given that only 29 projects overall have ever applied PS7. Four additional projects would be a 17% increase in the size of IFC’s PS7 portfolio.



## Procedural

The language of PS7 is strongly protective of indigenous rights. However, the processes and procedures developed by IFC and clients do not assure the implementation of the safeguard. Procedural gaps exist at the point of project assessment (PS1), IFC appraisal of client due diligence, and, in many cases, in the type of financing itself – such as investments in corporate entities rather than designated projects. These procedural gaps have been borne out in at least two CAO complaints against direct investments (as well as several additional complaints pertinent to financial intermediaries).



*Figure 3 - Hmaw Bi village, where Myanmar Abwa plant is installed Credit Juan Gallardo for NEED Ecovillage 2014*





## CAO complaints for PS7 procedural shortcomings

Within IFC's direct investment portfolio, the CAO has found IFC and client processes for evaluating indigenous impacts to be insufficient to actually make a determination on PS7 at least twice. In one project, the Myanmar Abwa chemical fertilizer company in Myanmar, the client established facilities that affected indigenous Shan, Kayin and Mon populations, as identified in the ESIA. Yet, as of November 2020, "CAO has not seen any assessment of differential impacts on these groups and why PS7 was not applicable to the HAIC plant."<sup>xii</sup> Indeed, IFC's own project summary states that its basis for bypassing PS7 was simply that, "all the land related transactions within the context of this investment are/will be based on a willing seller: willing buyer and/or willing lessor: willing lessee and are expected to be located within industrial areas... There is no presence of Indigenous Peoples or known cultural artifacts within the company's operational footprint."<sup>xiii</sup> This statement does not articulate whether IFC or the client considered impacts on indigenous communities adjacent to the industrial zone, let alone the legitimacy of "willing buyer" deals on indigenous lands, which may not be eligible for individual exchange and sale, according to PS7.

Likewise, the CAO's review of the Wings Group beverage plant in Indonesia considered the environmental and social impacts only of the processing plants. The Alliance of Indigenous Peoples of the Archipelago Kalimantan Timur (AMAN Kaltim) complained on behalf of the indigenous

communities of Long Beluah and Long Lian of North Kalimantan that the company's palm oil plantation was established through the purchase of individual parcels of land, including 49 hectares of tropical forest. They claim the company is clearing forest beyond that area, but, regardless, as indigenous peoples for whom the forest is an important part of life and ancestral legacy, willing-seller deals should not have been undertaken at all. CAO found the case eligible for facilitated settlement but has been unable to travel to the area since the Covid-19 pandemic halted fieldwork.

*"Without pasture we are forced to move and look for other pastures. There are no other options left"*

*Mongolian herder displaced by the Oyu Tolgoi Mine*

*"This mine has taken away our land and water, destroyed our sacred Bor-Ovoo Mountain, which has always been a mountain we worship."*

*Mongolian herder displaced by the Oyu Tolgoi Mine*

Internal assessments conclude PS7 does not apply, without validating the conclusion with indigenous peoples

As the CAO complaint notes for Abwa, the self-identifying indigenous communities around the Myanmar Abwa investment were not consulted on their eligibility for PS7 protections. PS7 requires IFC clients to "identify" indigenous populations "within the project area of influence" during environmental and social due diligence, but it does not lay out procedures for conducting that identification. Nevertheless, in line with risk assessment processes, clients are expected to consider the intensity of potential impacts, both "direct and indirect," on the economic, social, cultural and environmental welfare of these populations. Adverse impacts are to be "avoided" or, where impossible, minimized to "restore and/or compensate" for the effects through an action plan developed with the informed consent and participation of the affected communities (PS7 Paras 8-9). IFC does not make clear how a company can declare a risk of impact to be absent, but procedurally, it permits this declaration without any sign that the communities under evaluation are engaged. PS7 language clearly articulates what is to be done when indigenous populations are identified and determined to be potentially affected. It does not articulate how the identification should be conducted or what qualifies as an adverse impact.

"Impact" is a term borrowed in ESIA from physics, to refer to the forcible contact of one object with another. Impacts are defined based on the



outcomes for the larger object. The earth regularly orbits into meteors and asteroids that are obliterated as they come into contact with earth's atmosphere; we do not evaluate impact based on the outcomes for those objects. When a multinational corporation enters into territories where sparse populations of indigenous peoples maintain tenuous grasp of their fragile governance systems, catastrophic impacts can occur without the company or its financial backers experiencing or witnessing it. IFC, in

contrast, must evaluate client due diligence based on risks to indigenous communities, not clients.

IFC clients did not, in any of the several hundred cases reviewed, ever describe a process of facilitating mutual understanding of how communities would experience the impacts, prior to determining whether PS7 would be applied. This raises questions about the conclusions that IFC drew on the numerous investments across four continents where clients found

indigenous peoples present at or near operations but determined that the populations did not merit indigenous protections. In IFC's summary documents of the 1010 Category A and B projects financed under the 2012 PSs, the opinions of the communities are never included.<sup>xiv</sup> Rationales vary widely as to why these identified populations did not require protection. Several examples are listed on the following pages.



Figure 4 - Nahua-Pipil dancer, of a community affected by Acajutla LNG, but not covered by IFC PS7 Credit Cam Ventoza 2014

**Consultants did not locate traditional stewards during site visits (Acajutla LNG, El Salvador).** The Acajutla LNG port and associated power line crosses the native lands of the Nahuat Pipil peoples, as well as Lenca and others.<sup>xv</sup> The powerline crosses through Santo Domingo de Guzmán, a majority-Nahuat-speaking municipality, as well as Sonsonate, where Indigenous peoples are often reluctant to engage with outsiders, sometimes actively avoiding assessment teams. Qualified experts are needed to engage with such populations. Acajutla made no such efforts but concluded that risks to indigenous peoples were minimal because “neither project personnel nor ESIA consultants observed or identified indigenous peoples or groups during multiple visits and interactions with communities.”<sup>xvi</sup>

**Lands were acquired through a “willing seller” (National Cement, Kenya; Robi Axiata, Bangladesh).** Land sales of indigenous territories may, indeed, be legal, but as these territories are often used communally, indigenous groups may struggle to recognize the long-term effects of an exchange of land for cash. It is specifically because indigenous livelihoods are so tied to land that “willing buyer, willing seller” approaches are considered exploitative by both ILO 169 and UNDRIP. Establishment of a cement factory on Maasai lands based on land sales undermines the premise of PS7. Likewise in Bangladesh, IFC invested in rural expansion of Robi Axiata’s telecom network. IFC considered PS7 inapplicable but never considered how “purely market-based transactions” could be secured in indigenous regions. IFC does not consider residents near cell towers among ‘stakeholders’ nor does it articulate whether increased cellular connectivity on indigenous lands could have cultural impacts. Specifically, implemented without consultation it can generate distrust, affect power structures, and even be used to exclude particular marginalized populations. For examples of how rapid



development of ICT technology can adversely affect indigenous peoples, consider the role of Facebook in contributing to the Rohingya genocide in Myanmar and the sectarian violence in Sri Lanka.<sup>xvii</sup>

**The impacts are not the client's in particular, but rather cumulative (TC Buen, Colombia).** Port facilities are frequently established at critical river junctions and coasts, which were often centers for indigenous life. TC Buen occupies lands that are ancestrally stewarded by indigenous and afro-descendant groups. Because these locations are strategic, often more than one installation is established, linking multiple industries, both inland and coastal, to storage and transportation. As a result, the impacts on indigenous communities cannot be attributed to a single operator, while the establishment of each successive installation and expansion incrementally crowds indigenous peoples out, cleaving them from their lands, resources and culture. PS7 articulates an expectation that IFC clients be sensitive to precisely these preexisting and compounding cumulative impacts, noting that the standard may apply to groups “that have lost collective attachment to distinct habitats or ancestral territories in the project area, occurring within the concerned group members’ lifetime, because of forced severance, conflict, government resettlement programs, dispossession of their lands, natural disasters, or incorporation of such territories into an urban area” (Para. 6).

**The communities are “integrated” or “assimilated” into broader culture (PMH Vietnam; STC Myanmar).** Because indigeneity is linked to a distinct cultural identity, documentation for several projects in indigenous-held lands argue that the affected communities have been assimilated based on their ability to speak the national language. Assimilation itself can be a form of cultural erasure.<sup>xviii</sup> But an evaluation of assimilation poses challenges of its own. Many indigenous communities learn to speak a national language for survival. Some even adopt religious practices to reduce scrutiny on their own belief systems. An evaluation of “integration” requires expertise that IFC never demonstrates in its public disclosures, despite referring to “integration” or “assimilation” in Indonesia (Batak peoples, PT Bajradaya Sentranusa), Myanmar (indigenous groups around the STC cement factory, coal mine and power station), and Vietnam (communities displaced by coffee plantations at Dak Lak, and by reservoirs and ecotourism at Hoa Binh PMH Vietnam).<sup>xix</sup>

**The impacts will be handled by a third-party NGO or government (STC Myanmar; CCL Products, Vietnam; Nature Forestry, China).** Indigenous protections were established specifically because government agencies have contributed to the marginalization of indigenous communities and international safeguards were deemed essential. Deferring to legal processes or third-party management in Myanmar (where active warfare is in its 70<sup>th</sup> year with some indigenous groups), China (where a genocide is ongoing), and Vietnam (where some indigenous peoples are referred to as “savages”) could trigger indigenous rights violations. A Myanmar investment by IFC, Apache Cement (STC) concluded indigenous impacts would be limited at direct facilities, but no reference is made to potential indigenous impacts associated with the carbon offsets planned to mitigate the climate impacts of the facility’s coal plant.<sup>xx</sup>

These rationales, written directly into IFC documentation, suggest that IFC and its clients default to non-application of PS7, in preference for increasing economic productivity of rural lands. Often the language of assessment is reminiscent of dismissive language promoted by the home state to undermine indigenous communities.



Indigenous impacts result from physical proximity to operations – the communities do not reside directly within, or claim ownership of, the project footprint

Another issue that arises in the CAO complaint against Myanma Abwa, above, is that indigenous lands are at risk through secondary impacts, through proximity to a project’s footprint. In at least 45 projects, IFC determined PS7 to be “inapplicable” based on the absence of indigenous peoples in the “operational footprint” or “project footprint.” In some cases this was a statement of the obvious, for example, a technology company offering accounting software to medical providers, based out of a room within an office complex. However, IFC uses identical language for large industrial operations in rural regions inhabited by indigenous populations. The presence of indigenous peoples can be very difficult to establish (or refute) in these rural lands, particularly in country contexts where land tenure is contested and land use is multi-faceted.

In principle, the impacts on indigenous people occurring outside the direct footprint should be evaluated under PS1, which covers “associated facilities” that are necessary for the functioning of the operation, as well as the impacts in the project’s “area of influence,” to trigger PS7 as needed. In practice, even if PS1 identifies such impacts, PS7 is not necessarily scoped to cover these impacts. For example, IFC bypassed PS7 for a 2013 windfarm investment in Brazil, Enel Wind.<sup>xxi</sup> One of Enel’s wind farms was developed within 5 kilometers of an established



Figure 5 - Young harvester Jean de Souza descending an acai palm. Kate Evans, CIFOR 2017

indigenous reserve for the Pankararú tribe. The turbines were installed by 2018 and the Pankararu began experiencing land incursions by squatters. IFC has never publicly evaluated whether its investment contributed to the incursions, by displacing populations that previously used lands where its windfarm is now situated.<sup>xxii</sup>

**In IFC’s 2015 investment in Brazil’s WOW Nutrition, indigenous farmers of açai berries were excluded from PS7 protections, because WOW did not own the trees.** On the same

principle, IFC bypassed PS7 in a second Brazilian agricultural investment, Belagricola. IFC acknowledged that Belagricola’s non-indigenous suppliers had conflicts with indigenous peoples, but these conflicts were somehow considered external to the project.

In at least one project, IFC’s failure to require PS7 protections resulted in a legal complaint against the client. The 2013 investment in Mexico’s Ac-uagranjas was actually halted by authorities because the ESIA was found to violate ILO 169 consultation rules.



Project	Country	Year	Indigenous relationship to the project deemed 'indirect'
<b>Wings</b>	Indonesia	2012	CAO complaint for indigenous impacts from agricultural sourcing, though the investment was in agricultural processing
<b>Enel Wind</b>	Brazil	2013	Wind farm adjacent to but not atop Pankararú lands
<b>WOW Nutrition</b>	Brazil	2015	Indigenous peoples among açaí suppliers and thus not differentiated from other suppliers
<b>Belagricola</b>	Brazil	2015	Indigenous impacts/conflicts link to sourcing, though the investment was in seed/grain processing
<b>Acuagranjas</b>	Mexico	2013	Fish farming and processing excluded impacts on fishing communities and populations adjacent the processing plant footprint (authorities say the ESIA violated ILO 169 requirements of indigenous consultation)
<b>Westfalia</b>	Chile, Colombia, Mexico	2017	Indigenous "assets or land" are not financially acquired but unregistered communities are pervasive and unevaluated (company is S. Africa based and site visits to Latin America are never documented)



Figure 6 - Nomadic herders of the Cholistan Desert, where IFC's Zorlu Solar has not considered indigenous land uses or migration paths

### Indigenous Peoples are tied to resources but not lands (fisherfolk, nomadic herders, etc.)

A very similar procedural gap arises when the impacts on indigenous peoples pertain to resources but not physical territories. These are most prevalent among indigenous communities that are migratory or nomadic. Fisherfolk, herders, foragers, gypsies and hunter/gatherers who maintain diverse traditional livelihoods involving migration are not recognized as eligible for PS7 protections at any of the 1010 IFC projects reviewed.

In some cases, IFC hews to national laws that withhold indigenous protections from nomadic populations (as eastern Europeans do with the Roma, Mongolia does with an array of herder communities, and Pakistan does with pastoralists). In other cases, IFC personnel seem to simply misunderstand

how indigenous livelihoods are tied to resources.

The decision to withhold PS7 protections for the indigenous, riverine communities of the Brazilian Amazon in two separate HDB Brazil projects (one for ports, described in detail in the introduction, and one for barging) is emblematic. **IFC acknowledged that the operations crossed through indigenous territories but at no point considered that rivers are not boundaries for indigenous peoples but systems that connect them to resources.** Any changes to river systems used by indigenous peoples affect indigenous livelihoods, changing the river flow, fish nesting grounds, safety of riverbanks, accessibility of traditional water travel modes, and feasibility of

traditional fishing methods. But IFC has only documented one case where a river was considered part of an indigenous traditional claim (Upper Trishuli I, Nepal).

Like river-based communities in Brazil, IFC's multiple investments in fisheries in the Solomon Islands consider the impacts to be offshore and thus of no bearing on indigenous peoples. Yet the indigenous peoples of the Solomon Islands include fisherfolk. Their culture and livelihood hinge every bit as much on impacts to *waters* as on impacts to *lands*.

Similarly, nomadic herder communities in Morocco, Ethiopia and Pakistan were bypassed in assessment documents.

Project	Country	Year	Resources/Link to impact
HDB Barging	Amazon	'12'14	Brazilian and Uruguayan rivers for transportation, riverbanks, fishing
Zalagh	Morocco	2013	Feed and poultry farms are on Berber migratory corridors and require water
Velocity Dairy	Ethiopia	2013	Oromia peoples are pastoralist, conflict-affected, & unrecognized by the state <sup>xxiii</sup>
DJEPL,UUPL	India	2014	Project doesn't say whether landless and migrant SCs/STs will be affected
NFD/ SolTuna	Solomons	'13'17	Offshore footprint is not seen to impact indigenous Solomons populations
Zorhu Solar	Pakistan	2017	Cholar Desert is a nomadic herding corridor
Zalar Agri	Morocco	2019	The farm is on Berber migratory corridors but not 'registered' indigenous land



## Industry, but not operational footprint, affects and displaces indigenous peoples

Another, procedural blind spot in IFC's application of PS7 is in projects where indigenous harms result from the IFC client's value chain, rather than to its specific operation. These IFC investments contribute to indigenous displacement as a collaborator rather than a driver. They include (1) investments in the value chain of an industry known to impact indigenous peoples but not the specific activity that directly dislocates those populations, and (2) investments in contexts known to be erasing indigenous identities through industrial growth but where no single industry drives the impacts. It is important to consider these cumulative and interacting impacts, because indigenous displacement is not often a single and sudden event. The destruction of indigenous culture and livelihood is often a slow, incremental processes of successive restrictions and dislocations.<sup>xxiv</sup>

In agriculture, IFC generally invests in inputs, processing and logistics, but less often the farms themselves. Such investments have been identified in the Brazilian Amazon, Mexico and India. India offers a useful case study in the way the narrow analysis of project-specific impacts bypasses indigenous rights by disregarding cumulative impacts on indigenous peoples. In India, the expansion of crop irrigation has converted marginal lands once farmed by India's "Scheduled Caste" and "Scheduled Tribe (SC/ST) communities, as India terms its indigenous communities. Monocropping follows, which has diverse impacts on the

traditional crops and balanced diets of low-caste farmers, both when they are directly displaced, and when they are coopted into the production chain of industrial processing firms, which facilitate the transition of SC/ST farms into producers of the crops they seek to buy. Increasing malnutrition and landless rates among SC/ST populations are attributed to this crop transition.<sup>xxv</sup> The farms are aggregated through a combination of illegal land deals and forced or coerced crop conversion among SC sharecroppers and small farmers. These changes restrict their access to traditional food options and their self-determination rights. As industrial farmers expand their crop production, they require processing, storage and transportation/logistics. **IFC has financed irrigation and agricultural inputs to expand industrial farming, as well as processing, storage, and transportation of these industrial crops in India, never applying PS7 on any.**<sup>xxvi</sup>

Something comparable has played out in Paraguay, where the expansion of agriculture into rainforest and dryland Chaco is the primary contributor to indigenous displacement. IFC has issued \$105m in loans to agricultural inputs firm Agrofertil (2011, 2016, 2020), to support its extension services in Paraguayan forestlands. Fertilizers, seeds and pesticides do not *cause* farmers to encroach on indigenous territories and convert indigenous forests into farmlands, but farmers would struggle to successfully establish new farms

without these inputs. IFC has not applied PS7 on any Agrofertil loans.

Comparable impacts occur on indigenous peoples in forestlands. Activities that increase the economic value of traditional lands can have complex unintended consequences for indigenous communities. IFC has made at least two investments that describe changes to forestlands without considering indigenous uses of or associations with those forests. In the Philippines, Cravings Equity established a touristic site in Palawan, which is the traditional lands of mountain and coastal indigenous Palawan peoples. Illegal logging for the tourism industry has affected indigenous lands and cultures, but the project documents make no reference to due diligence around timber sourcing for eco-lodge construction and no mention of indigenous peoples.<sup>xxvii</sup> In Mexico's Proteak, IFC disclosures mention the displacement of "landless workers" from forestlands but do not consider why those individuals are landless or what their heritage is. Often the landless are actually traditional stewards of the territories they work.<sup>xxviii</sup>

Identifying indirect impacts like these in India, Paraguay, Mexico, the Philippines and Brazil (see HDB), which can permanently damage indigenous livelihoods, lands and cultures, would require due diligence explicitly oriented towards indigenous peoples. But when the analysis stops at the fence line, such understanding is impossible.





Project	Country	Year	Link to indigenous impact
Involved in the agricultural value chain but not the direct physical acquisition of IPs lands			
<b>Agrotec</b>	Latin America	2010, '14, '18	Agricultural inputs promote farming without consideration for the proximity of shops to sensitive, indigenous lands
<b>Agrofertil</b>	Paraguay	2011, '16, '20	Agricultural inputs retailers located proximate to the Gran Chaco encourage farming that encroaches on indigenous lands
<b>Proteak</b>	Mexico	2017	Forestry project displaces “landless workers” without considering if they are ancestral stewards
<b>Vicentin</b>	Argentina	2017	Agricultural processing in Santa Fe promotes farming on Mapuché lands
<b>Srinivasa</b>	India	2018	Soy processing and poultry production do not geolocate facilities or indicate where soy will be sourced
<b>Jain IV</b>	India	2018	Irrigation investment expanding industrial farming displaces SC/ST
<b>ETC India 2</b>	India	2019	Agricultural processing in region where industrial farms displace SC/ST
Involved in incursions into indigenous territories but not by directly financing the incursions			
<b>HDB</b>	Brazil	2014	Ports and river contouring where indigenous peoples have traditional river uses
<b>Cravings Equity</b>	Philippines	2014	Tourism and coffee farm on or adjacent indigenous lands
<b>Vix Logistica</b>	Brazil	2014	Trucking logistics in indigenous Amazonian regions
<b>Best Logistics</b>	China	2016	Trucking logistics in indigenous “frontier” regions
<b>SETRAG</b>	Gabon	2020 <sup>xxix</sup>	Railway repair 648km through traditional tribal lands, for mine access



IFC's investment is not tied to a specific project footprint

The above procedural challenges to PS7 implementation hinge on IFC's misunderstanding of how indigenous peoples interact with land and resources, as well as the role of industrial development in cultural erasure. A far more challenging situation arises when IFC does not know its project footprints at all. IFC makes different types of investments at different points in a company or operation's lifecycle, and the time of investment influences the application of various performance standards. For example, when IFC lends money to a company to build a specific, infrastructure-intensive project, it will require extensive due diligence of that specific project, including detailed information about the socioeconomic baseline at

the designated site. In these cases, a review of PS7 applicability will be specific to that particular project, even if the company may also have operations in other countries and contexts with different, unrelated impacts on indigenous peoples. However, when IFC lends money to a company for general capital, corporate debt reduction, or unspecified/unfinalized expansion plans, the IFC funding tied to the Performance Standards is harder to identify among a client's assets. **In practice, IFC infrequently applies PS7 on investments directed to corporate entities with multiple operations rather than development "projects" per se, meaning that a sizeable portion of IFC's portfolio involves a lower level of rigor in assessment of indigenous**

**impacts.** This is a matter of simple practicality: when IFC invests in firms operating in 70 countries, producing processed goods sourced from thousands of suppliers, it is not possible for IFC to conduct rigorous review of each footprint. Likewise, when IFC financing supports corporate "expansion" in a general sense, rather than at a designated project site, IFC comprehensively reviews standard operating procedures, not on-the-ground realities.

This is problematic, because **IFC only applies PS7 where the project footprint affects indigenous peoples; there are no cases where IFC invested in a portfolio or corporate entity where it required FPIC under PS7.**



Figure 7 – Transmission lines over an abandoned house and well in Lalpur, India, where Powergrid operates Adam Cohn, India March 2018 (CC)



In Olam's sugar-sourcing region of Maharashtra, SC/ST populations comprise one-fifth of the population but hold almost none of the land. Corporatization of sugar coops (a process that Olam has contributed to directly through the purchase of mills from coop owners) has been found to benefit political and economic elites to the detriment of workers and farmers. Simultaneously, the displacement of SC/ST populations by public infrastructure (e.g. by the Sardar Sarovar dam, built to benefit middle caste farmers in Gujarat), have sent landless populations into the cane fields, creating competition and driving down labor conditions further. Recent research found that 8.6% of women cane cutters have had hysterectomies in Maharashtra, because they work 13-18-hour days and pay a fine if they take a sick day. India's designation of SC/ST populations as indigenous aims to protect these populations, but investments in industries that exploit their landlessness undermines that effort.

Cane work is exploitative, characterized by debt bondage (which is why women elect to remove their uteruses rather than miss two days of harvesting in a month). Because children travel with parents, removed from school and isolated because they speak tribal languages, families describe 'cultural erasure,' whereby they, as workers, are referred to as the tool they use (cutters), they cannot access cultural foods and crops (part of their pay is in-kind food, which is often moldy millet), and the kids, forgetting cultural games, come to play 'cane harvesting' with toy trucks and grass.

There are no sugar mills immune from this, so there is no way IFC can avoid contributing to the problem if it finances the industry, as it does through Olam. However, no PS7 analysis considers the role of Olam's mills in the exploitation and displacement of IPs.

For reasons elaborated above, the application of PS7 only to a project footprint is itself insufficient (e.g. it disregards indigenous uses of water resources and migratory traditions), but even setting aside the resource-based needs of indigenous peoples, the footprint-based approach is not suited to IFC's actual lending portfolio, even within its Category A and Category B projects (the problem created in its Financial Intermediary portfolio is worthy of an entirely separate report).

*Investment is at the corporate level rather than project or footprint-specific level*

Corporate-level investments pose similar challenges as the investments that predate the establishment of footprints. In at least 15 projects, IFC invested at the corporate level (rather than at specific operations) of firms that operate in contexts with indigenous peoples. In principle these investments require all operations to adhere to the Performance Standards.

However, in practice, IFC only carries out fieldwork and due diligence on a sub-set of footprints, which do not necessarily coincide with operations that pose the greatest risks to indigenous groups. For example, between 2013 and 2018, IFC issued \$340 million in loans to global agribusiness and trading firm Olam. Olam is an agricultural producer, processor and trader; owning farms, factories storage and logistics infrastructure in 66 countries. As the world's largest cocoa trader, sourcing beans from West Africa, Olam has documented labor protections (PS2) violations with findings of child labor in its workforce in both 2016 and 2017 (FLA audits), but this PS breach did not apparently affect IFC's ability to invest in Olam in 2018.

Given the overt violation of PS2, there is cause to question how closely its global operations hew to the Indigenous Peoples Performance Standards; especially as PS7 is not professionally audited at any of Olam's operations. IFC field evaluation – in England, Singapore, India, Nigeria, Indonesia and

Vietnam – did not prioritize several countries with heightened indigenous risk, such as Olam's controversial palm oil operations in Gabon and Indonesia,<sup>xxx</sup> or its coffee sourcing in Honduras, Guatemala and PNG.

**Even where operations were visited, as in India, IFC due diligence covered land impacts and labor controls but did not extend even to actual agricultural footprints, let alone to communities and indigenous peoples.** This is notable for two reasons. First, IFC's PS1 requires assessment of "associated facilities," which are essential to the existence of the IFC project. Olam describes itself as having no "major competitors" in its Indian spice and tomato markets, suggesting a strong hold on its supply chain that would render them 'associated facilities'. Second, India's agricultural castes often exclusively hire ST workers, many of whom have multigenerational ties to the lands they work.<sup>xxxi</sup>

In India, as elsewhere, indigenous landlessness is frequently a result of



recent agricultural transitions in the region towards industrial irrigated plots or towards industry-designated crops. However, IFC made no apparent inquiries into why indigenous workers were landless. The complex, structural discrimination inherent to agriculture in Kerala and Maharashtra (Olam's operating regions) require nuanced analysis to accurately assess indigenous impacts. This was not done.<sup>xxxii</sup>

IFC took a very comparable approach to investments in other agricultural processing companies, providing capital for new and expanded facilities without knowing their footprints or questioning whether affected communities required indigenous protections. This was the approach to Los Grobo Equity, an Argentinian agribusiness firm (2016). The client was aggregating firms involved in i) the manufacturing of crop-protection inputs, (ii) agri-inputs distribution, (iii) grain origination, storage and logistics services, (iv) farming, and (v) milling, but the IFC never inquired where farms were located or whether they affected Argentina's substantial indigenous land claims.

When issuing loans to global agricultural trading firm Ecom (which has received six rounds of IFC financing since 2006), IFC explicitly noted that the loan should support activities in Brazil (cotton, coffee) and Ecuador

(cocoa) with a focus on the farming supply chain, but IFC does not appear to have reviewed whether Ecom's agricultural demands in these countries were encouraging farmers to encroach on indigenous lands. Brazil's cotton industry is directly linked to deforestation of indigenous lands, but this is not mentioned in IFC disclosures.<sup>xxxiii</sup>

IFC's repeated investments in China-based agricultural trader Cofco-Noble followed a similar pattern.<sup>xxxiv</sup> In one such investment, on five occasions for four consecutive years (2015 through December 2018), IFC issued the same expectation, verbatim, of Cofco-Noble to source materials with "respect of Indigenous People [sic] Land." Why the ESAP requirement remained unmet has not been publicly documented. Project documentation suggests that IFC's concern was primarily with soy and sugar sourcing on Amazonian tribal lands in Brazil. However, Cofco's operations in Paraguay, Argentina and India are not mentioned for potential indigenous impacts, even as potential impacts on "ecologically sensitive" regions in those countries are noted. There is substantial overlap between ecologically sensitive territory and indigenous presence which goes wholly unnoted. IFC reported in January 2021 that it was divesting from Cofco but did not indicate that the divestment pertained to PS7 limitations.<sup>xxxv</sup>

**In some cases, IFC justified corporate-level investments as a means to improve environmental and social performance across the entity, yet those projects did not go on to document due diligence for indigenous peoples.**

For example, in IFC's investment in the China Three Gorges South Asia Investment Limited (CSAIL) holding, IFC described its additionality to include enabling "the Company to develop a robust environmental and social management system, ensuring the implementation of IFC's Performance Standards." The company invests in renewable power projects across Pakistan. However, PS7 has not been applied on any investments within the portfolio, including hydroelectric dams in occupied indigenous Kashmiri lands, as detailed below.

It is impossible to square this approach to due diligence with the language of the Performance Standards. This financing should be impossible until the footprints of greenfield expansion are established, the ESIA has begun, and identified indigenous peoples have been evaluated for potential impacts that would trigger FPIC requirements. If applicable, IFC funds should be subject to the client's achievement of FPIC. That is not how IFC and its clients apply PS7 in practice.





Project	Country	Year	Industry, Link to indigenous peoples
<b>Olam I</b>	Global	2013	Agribusiness - "Landless" indigenous workforces in Indian sugar are often displaced by industry and forced into labor. Indigeneity was not considered in India, Central America or anywhere in Olam's portfolio
<b>Olam II</b>		2016	
<b>Olam III</b>		2018	
<b>Niko</b>	India Bangladesh	2013	Oil/gas - Niko is in India, Bangladesh, Madagascar and West Papua, Indonesia. IFC assessed that the West Papua investment at the Kofiau PSC Block required the firm to "assess whether exploration activities affect IP communities" and apply PS7 as appropriate (E&S Mitigation Measures). The ESAP claims "Niko will develop corporate policies and procedures in line with IFC Performance Standard 7." The outcome, "expected" 12/31/2014 was described as "In Progress" on 12/2/2020.
<b>Powergrid</b>	India	2014	Power Transmission - Transmission lines cross indigenous lands. They affected communities, spurring legal action
<b>CSAIL</b>	Pakistan	2014	Renewable Energy - Commitment to implement PSs did not include any indigenous considerations
<b>Cofco-Noble -Nidera - II</b>	Global	2014	Agribusiness - Commitment to implement PSs did not include indigenous considerations in Paraguay, Argentina or India. Indigenous protections mandated in the ESAP went unfulfilled for at least 5 years
		2014	
		2015	
<b>Ecom</b>	Global	2016	Agribusiness/trade - IFC asserts that "IPs are not impacted by the company's operations; nor are matters of cultural heritage as processing plants are located in existing industrial areas and farmers supplying to the company have existing properties/fields and any development would be limited to replanting with higher producing coffee or cocoa plants." There is no articulation of how IFC would know this (or what the risks are present with Brazilian cotton), but there is considerable risk that all of these commodities could be encroaching on indigenous lands
<b>Los Grobo Equity</b>	Argentina	2016	Agribusiness/Equity - No mention of IPs is made despite vast rural landholdings and impacts
<b>MCS Property</b>	Mongolia	2013	Real Estate - The company builds housing across Mongolia including for the Ukhaa Khudag mine, where local people say there are indigenous herders <sup>xxxvi</sup>
<b>GWFP Mercon 2</b>	Guatemala Honduras Nicaragua Brazil Vietnam	2019 2018 2017	Agriculture (Coffee) - Credit facility to support Mercon's activities across the coffee value chain from production and storage (Guatemala, Honduras, Nicaragua, Brazil, Vietnam) to transportation and commercialization (global). Mercon sources raw beans from more than 9,000 third-party suppliers. IFC has not enquired how its sourcing affects indigenous peoples of any of these countries, who often inhabit the hills where coffee is shade-grown.
<b>Suguna III</b>	India Kenya Bangladesh	2020	Agriculture (Poultry) - IFC is financing \$54m of a \$67m operational expansion across 3 countries with indigenous populations (including in Odisha, in India, and making no mention of the localities in Kenya or Pakistan, and making no reference to the broad environmental impacts poultry production has on downstream communities. <sup>xxxvii</sup>
<b>Afriflora</b>	Ethiopia	2015	Agriculture - Competition for water resources (Lake Ziway) could impact indigenous lands even if flowers are not directly grown on indigenous lands.



### *IFC's investment postdates the indigenous impacts of projects (Assets predate IFC investment)*

Corporate-level investments into holding companies that acquire existing assets pose particular challenges for indigenous peoples due diligence, IFC's portfolio indicates. This is because (1) clients that already hold assets prior to IFC's involvement cannot retroactively obtain FPIC, and (2) clients that continue to acquire (existing) assets after IFC funds have been disbursed leave IFC little leverage to retroactively enforce PS7 compliance as those acquisitions are being incorporated. IFC sometimes acknowledges the need for ongoing due diligence but not consistently.

For example, Road Holdco (2014) acquired existing roads and planned to acquire parking facilities, logistics infrastructure and other transportation assets across India but did not see the vast footprint of its holding company as potentially affecting indigenous (SC/ST) populations. On the contrary, IFC required only that land acquisition "subsequent to Road Holdco involvement will be in accordance with Performance Standards 1 and 5." The road acquisitions included at least one potential impact on indigenous peoples that was not reviewed as such. At Addanki, in Prakasam, Andhra Pradesh, an "informal settlement" was obstructing the right of way for a Road Holdco highway. Addanki is roughly a

third (29.5%) SC/ST, populations characterized by landlessness.<sup>xxxviii</sup> IFC never states whether it evaluated the indigeneity of this community, but it clearly never applied PS7.<sup>xxxix</sup>

In addition to Road Holdco, the approach also characterized IFC's investment into Orazul Energia, a holding company created by IFC in 2017 to manage Latin American hydroelectric assets acquired from Duke Energy. The portfolio covers long-established assets, many of whose indigenous rights impacts were never considered, and two of which are afflicted by "existing and historical social tensions" in Peru. IFC did not visit all sites or engage with any communities ("Given the nature of the public bidding process..."). IFC reports that the partner in the project commissioned a community environmental and social assessment. Though the project is Category A, IFC has disclosed no assessments.

IFC's partner on both Orazul and Road Holdco is the same investment firm, ISQ (I Squared Capital). IFC issued \$250 million in equity and loans to ISQ for its Indian tollway investment two years after the firm's establishment and before it had any experience in India. The ESAP indicates that the company had not managed to

demonstrate legal compliance with an array of permitting agencies or established an Environmental and Social Management System. Its human resources policies and procedures were noncompliant with IFC's labor standard (PS2) and had not even established an IFC-compliant livelihood restoration program for displaced roadside households. It had neither a stakeholder engagement program nor a grievance mechanism. A corrective action plan was anticipated 2017 but has never been made public.<sup>xi</sup>

Positively, IFC has continued to update some disclosures on the Holdco investment, including an ESDD for a new acquisition. Unfortunately, this due diligence suggests that many problems identified in 2014 persisted in 2018, including noncompliance with permitting regulations, the lack of an Environmental and Social Management System, stakeholder engagement plan and grievance mechanism, noncompliance with PS2 labor requirements, and detailed data about the individuals and communities encroaching on the Right of Way.<sup>xii</sup> As noted elsewhere, the communities that encroach on roadways are often indigenous peoples made landless by infrastructure developments.

Company	Country	Year	Investments in portfolios that have already harmed IPs
Road Holdco	India	2014	SC/ST populations along planned and extant roads
Orazul	Latin America	2017	Indigenous peoples affected by existing energy infrastructure are never considered, though "conflict" is mentioned



Figure 8 Tribal people in the uncontacted frontier of Peru and Brazil, where Peruvian loggers threaten the survival of these communities, and where IFC client Nature Forestry invested IFC funds (Credit G. Miranda, FUNAI Brazil and Survival Intl)

### *Investment predates the establishment of a footprint*

One challenge for PS7 evaluation for corporate-level investments is that IFC can only field-validate existing footprints and corporate policies; it cannot consider the particular contextual conditions at planned facilities that have not yet been sited. For example, in PT Bajradaya (2019, pending), IFC visited an existing hydroelectric dam on indigenous Batak lands in Indonesia, and interviews reportedly indicated that the Batak community had positive relations with the operator (IFC does not describe a sampling methodology for these conclusions).

However, the aim of the financing was to “allow the sponsor to invest in greenfield hydropower plants in the pipeline.” None of these are listed, geolocated, or evaluated for their potential impact of PS7, and no requirements in the ESAP mandate it going forward.<sup>xliii</sup> A Catch-22 emerges for PS7 in cases where IFC funding precedes the determination of a footprint. Specifically, if a PS7 review found a community eligible for FPIC, but IFC had already provided financing, IFC would be in breach of its due diligence requirement, having

financed a project that did not achieve ‘prior’ consent. Financing cannot, in practice, be ‘contingent’ on application of PS7 if PS7 will require FPIC, because the money will be in place completely absent a ‘consent’ agreement. IFC does not, as such, have any way to guarantee that it is safeguarding indigenous rights or FPIC any time it invests without site-level due diligence at a designated project footprint.

On at least 12 investments (including PT Bajradaya), IFC has issued financing to a client that planned to operate in a



rural area of a country with recognized indigenous presence before its footprint had been established. In each of these investments, IFC could vet a potential client's policies and processes but could not confirm the operationalization of them.

In some cases, IFC summaries suggest that indigenous people's concerns will merit further scrutiny as footprints are established. This was the case for Nature Forestry China, a 2012 client acquiring plantations to supply its flooring operations. IFC noted that environmental and social risks associated with "currently known plantation targets relate to land acquisition, including the potential for physical or economic displacement... and the potential to impact indigenous groups". IFC was also supporting Nature Forestry to acquire assets in forestry in Peru, where high rates of illegal timber extraction have impacted indigenous

peoples for decades. In Peru, wood tracing is a critical component of risk reduction, but IFC does not describe a footprint, let alone a sourcing due diligence process. PS7 was not triggered, nor did IFC produce follow up reporting to demonstrate whether acquired forests impacted indigenous groups. In 2012, with IFC financing disclosed but not yet approved, signed or invested, Nature Forestry acquired the Sepahua forestry concession, named for the indigenous town it infringes.<sup>xliii</sup> The area has a persistently high presence of illegal loggers threatening the welfare of contacted and, in particular, uncontacted peoples of the Sepahua area.<sup>xliv</sup> It is inexplicable that IFC disbursed funds without publishing any due diligence on the new concession on this highly sensitive forest.

IFC has stated that its application of PS7 has evolved and strengthened

over time. This is not clearly borne out with regard to investments that pre-date delineated footprints. For example, a 2020 IFC investment in SECI Mahindra in India covers, among other installations, a transmission line whose route has not been finalized. IFC notes that the line will generally follow the road and that landowners will be compensated. There is no mention of the landless SC/ST roadside residents whose traditional livelihoods rely on proximity to roadways. Likewise, in a 2019 investment in HKY2 poultry farms, IFC supported the firm's expansion of poultry farms into Inner Mongolia without considering indigenous peoples at all – IFC due diligence did not include a visit to Inner Mongolia, and public disclosures do not indicate that footprints were established at the time of investment.

Project	Year	Potential indigenous peoples issue not evaluated
<b>SECI Mahindra India</b>	2020	Renewable projects across the country
<b>HKY2 China</b>	2019	Poultry farms & processing in Inner Mongolia
<b>Haid International Asia</b>	2018	Agricultural suppliers to aqua & feed operations (IFC flags resettlement and biodiversity but seems not indigeneity across China, India, Vietnam, Indonesia)
<b>Summit Bangladesh</b>	2016	Power Installations across the country. Project later revisited its portfolio and pursued a PS7 evaluation in Chittagong (see Conclusion, below)
<b>Citla Mexico</b>	2015	Planned onshore oil/gas developments
<b>Atopco China</b>	2014	Animal processing in frontier regions of nations with known IPs. IFC visited Beijing and
<b>New Hope Asia</b>	2014	feed mills in China/Indonesia but never neighboring communities, never Vietnam, Philippines, Bangladesh, Myanmar, Laos, Cambodia, Sri Lanka
<b>ON Telecom Brazil</b>	2014	Broadband in Sao Paulo state, including over 300 new (but not sited) greenfield towers
<b>Nature Forestry China/Peru</b>	2012	Indigenous forest people in China and Peru – ESAP calls for IP management (Nov 2012/Jan 2013). 2011 Rainforest Alliance audit (Yurimaguas, Peru) clearly identified IPs
<b>Hassan Allam Egypt</b>	2016	This infrastructure construction firm, whose future projects are completely undefined, and whose labor sourcing is opaque, in countries with IPs
<b>AC Energy Vietnam</b>	2019	Unknown footprint for expanded operations in Vietnam. Other RE projects in Vietnam triggered PS7, but IFC doesn't say why not this one
<b>PT Bajradaya Indonesia</b>	2019	IFC assessment of PS7 for future projects is based on indigenous encounters at an existing operation



## Substantive Failures to Apply PS7

The procedural gaps that result in numerous potentially “missed” PS7 projects, above, point to an array of interventions that IFC could pursue to more fulsomely apply its standards. However, in other projects, the decision not to apply PS7 does *not* hinge on procedural rationales. These lapses suggest that some IFC clients have knowingly affected indigenous peoples. We term these ‘substantive’ reasons for bypassing PS7. In essence, the decision to bypass PS7 in these cases hinges on problems the client would experience if it acknowledged indigenous peoples, rather than procedural shortcomings in the appraisal process.

We identified three sub-categories of substantive bypasses of PS7. In the first, characterizing investments dated from 2012-2016, IFC and clients identified indigenous people in project documentation but bypassed PS7. In the second, starting in 2016, IFC and clients ceased mentioning indigenous peoples, where they were previously confirmed to be present either in prior IFC investments or in public literature. In the third, spanning the two periods, indigenous peoples have been scrubbed out of project documentation consistently in all investments to particular regions where the government is actively hostile to its indigenous populations. The avoidance of indigenous designations in these second and third categories – in contexts as varied as Andean Peru, Kashmiri Pakistan, Uyghur China and the Hill Tribe territories of Vietnam – raises a question of whether IFC projects have truly stopped being established on indigenous lands, or whether acknowledgement of indigenous peoples is being suppressed.



Figure 9 - At the well with camel, near Khanbogd Oyu Tolgoi - Credit Bankwatch 2011



Figure 10 - Roku Village, traditional stewards of land bought by IFC client AES-PNG (Credit TWM PNG, Facebook, 2019)

### CAO complaints for PS7 substantive shortcomings

There are at least two established cases where IFC clients bypassed PS7, and then indigenous peoples themselves identified their experienced impacts to the CAO: Oyu Tolgoi and AES-PNG Roku Village.

In the two CAO complaints brought against the Oyu Tolgoi mine in Mongolia, the indigenous herders who use the territory seasonally for grazing lands and have deep spiritual ties to natural resources have never been evaluated for the impacts of the mine on their culture. When the client diverted a sacred river, it affected both culture and livelihoods, but because IFC did not recognize the community's claim to a land they only seasonally occupy, it did not identify the need for PS7. Although the CAO avoided directly addressing the question of whether PS7 should have been applied, the community was unequivocal in self-identifying as indigenous and describing their cultural links to land and resources.<sup>xlv</sup> Had CAO approached the case as a compliance matter in addition to an ombudsman case, it might have provided additional clarity on how clients should evaluate indigeneity and validate their conclusions about the applicability of PS7.

IFC similarly did not trigger PS7 at an electrical engineering business (AES Systems) in Papua New Guinea. The company had operated in the country since 1997 on Kuriu Clan lands, and IFC's 2013 proposed investment would have expanded its footprint and established a port and wharf presence.<sup>xlvi</sup> IFC determined that AES had procured land based on a willing seller arrangement with an individual, Inogo Gabe, who had no legitimate claim to the land, which PNG courts had ruled to be customary territory of the Kuriu.<sup>xlvii</sup> How IFC conducted its due diligence on land acquisition is never made clear, and the entity continues to struggle with land acquisition issues.<sup>xlviii</sup> Kuriu Clan residents filed the CAO complaint before the loan was disbursed and the client, rather than IFC, cancelled the loan, terminating the CAO investigation process. AES moved forward with its wharf and port facilities without IFC financing,<sup>xlix</sup> raising questions about whether IFC's early-stage, pre-investment support might have made possible a project that did not ever meet its Performance Standards.



## 2012-2016: Where IFC project documentation acknowledges indigenous peoples but IFC opts not to apply PS7

IFC's rationales determining PS7 to be inapplicable are difficult to validate, because so little is disclosed about the methods, scope and interview protocols involved. In a series of projects, however, IFC offers no explanation at all for bypassing PS7, while describing project proposals that external observers would recognize as posing substantial risk to indigenous populations. These are some of the most worrisome projects in IFC's portfolio, because they essentially detail severe risks to indigenous peoples and demonstrate no commitment to assuring their participation in project design and implementation, let alone consent.

### *Minerva Beef – Brazil and Paraguay*

A thoroughly documented example of IFC investing in a client that has overtly identified risks to indigenous peoples is IFC's deep involvement in cattle ranching in the Amazon. In IFC's disclosures on a 2013 equity/loan investment in beef producer Minerva, the express aim of the investment was to improve traceability of the cattle supply chain to reduce environmental and social risks, including those faced by indigenous peoples. Minerva was classified as a maximum-risk Category A project for potential "deforestation, child/forced labor, encroachment on Indigenous People land, and respect of customary rights by the Company's primary suppliers." Cattle farming is deforesting indigenous lands in Paraguay, Bolivia, Argentina and Brazil faster than any other commodity producing activity.<sup>1</sup> The Amazonian rainforest is the ancestral land of numerous indigenous groups, and illegal conversion of forest to cattle rangeland devastates their culture and livelihood.

Despite recognizing these risks, IFC did not apply PS7 on the project, meaning no engagement with indigenous communities across Minerva's operational area of influence occurred. By 2017 it had become clear that the risks were realities.



Figure 11 Cattle ranch in the Amazon (Credit Jai Mansson 2007, CC)



That year, Brazil's Federal Prosecutor found that Minerva could not account for the sourcing of 776 head of cattle, and it could not verify the legitimacy of documentation on the rest of its herd as coming from legally owned Amazonian lands. Minerva does not monitor secondary suppliers, meaning illegal sales to its primary suppliers go completely unmanaged.<sup>li</sup> Indeed, in 2018 a Minerva supplier who owns both illegal and legal farms transferred 54 animals from an embargoed farm on deforested rainforest to a legal "clean" firm, selling the animals to Minerva seven minutes later. The firm is still authorized for commercial transactions with Minerva.<sup>lii</sup> In Paraguay, Minerva has only mapped half of its Paraguayan direct suppliers and none of its secondary suppliers. In December 2020 Global Witness reaffirmed Minerva's direct links to massive deforestation in the Brazilian Amazon and incumbent abuses of indigenous rights.<sup>liii</sup> The UN has reported that indigenous peoples displaced by cattle farms were hired into the workforce in slave-like conditions.<sup>liv</sup> IFC has neither justified the decision to bypass PS7, nor documented any monitoring of indigenous peoples' impacts, though it retained equity in the firm as of 2021.<sup>lv</sup>

#### *AdecoAgro Argentina*

Likewise, IFC bypassed PS7 on agro-industrial operations for AdecoAgro in Argentina, despite the evaluation from the assessment Performance Standard (PS1) identifying families of the Mocovies Indigenous Peoples (who hold ancestral claim to the whole San Joaquin and San Francisco regions), within five kilometers of at least two of the operation's sites. The client rationalized that "none of these communities are [sic] directly affected by the project activities" without articulating how it came to this conclusion. On the contrary, the Environmental and Social Action Plan (ESAP) suggests that land acquisition procedures may indeed leave open questions of impacts on Indigenous Peoples. Item 5 of the ESAP required AdecoAgro to "adjust existing land acquisition and lease procedures to ensure screening against and application of the IFC Performance Standard requirements related to Land Acquisition and Involuntary Resettlement (PS5), Biodiversity Conservation and Sustainable Management of Living Natural Resources (PS6), and Indigenous Peoples (PS7)."

#### *Powergrid India*

In India, an energy sector investment that recognized potential impacts on indigenous peoples avoided PS7 application by baselessly narrowing the standard's applicability. In 2012 and 2014, IFC invested in the holding company that manages the national grid (Powergrid India), with finance dedicated to infrastructure expansion. IFC acknowledged that the grid expansion could affect indigenous peoples, but it neither assessed footprint-specific risks, nor acknowledged the responsibilities the client held under PS7. On the contrary, IFC held to a separate, lower bar for indigenous engagement that PS7 sets, stating that an IP development plan would be required only "if *significant* adverse impacts are expected on IPs" (emphasis added). PS7 (Paragraphs 13-16) sets no bar for the client's perceived significance of impacts on lands and/or livelihoods. The decision not to adhere to the letter or intent of PS7 appears to have served the client poorly while also contravening Indian law. In 2019 the Scheduled Caste and Scheduled Tribe Council ruled in favor of a petition by indigenous communities stating that PowerGrid alienated tribal rights and requiring restitution.<sup>lvi</sup> This procedural shortcoming would not have been possible if IFC had processes in place to cross-check the activities of clients with the content of PS7.

#### *El Dovio Colombia*

While the large majority of projects that bypass PS7 also bypass the indigenous engagement and consultation processes incumbent with the standard, one 2013 project did not apply PS7 but pursued all the requirements of the standard anyway. The El Dovio mining exploration project in Western Colombia identified indigenous and Afro-Colombian peoples at two separate exploration sites, flagging them in the ESRS, environmental and social management review and the environmental and social action plan. When the company began planning a 2015 drilling plan, it shared the plan with indigenous peoples in collaboration with a local consulting group and established an ongoing consultation framework. Why PS7 was bypassed when communities were engaged in collaborative agreement-based approaches is never articulated.





Figure 12 Men carry *Casuarina* wood - a hardwood used by JK Paper - in Janiguda Rayagada Odisha (Rita Willaert CC)

#### 2016-2020: Where indigenous peoples have been scrubbed from IFC documentation

Between 2013 and 2015, IFC seemed to expect clients to articulate whether they anticipated PS7 impacts in either their Environmental and Social Information or in their Categorization Rationale (72 statements in 2013; 50 in 2015). These statements all but disappeared by 2016, even in projects that were reinvested at later dates. Though basic, the statements suggested that IFC required a determination on indigenous presence. When the statements vanished, sometimes reference to indigenous peoples that had been acknowledged in previous investment rounds vanished as well, as demonstrated in examples below.

#### *CSAIL (Karot) Cofco (Xiang Nian II)*

While the initial 2014 project documents for CSAIL China Three Gorges renewable power project noted a potential for PS7 impacts, by the time IFC invested in CSAIL sub-project Karot Hydro in 2016, mentions of indigenous peoples were eliminated. Likewise, a 2015 IFC investment in Cofco (the Chinese agricultural conglomerate) included a requirement in the Environmental and Social Action Plan that the company update its sourcing policies to assure “respect for indigenous peoples.” However, a 2019 investment in a food company that partners with Cofco global for grain supplies and operates in Xinjiang Uyghur Autonomous Region (Xiang Nian II) makes no mention of indigenous peoples.<sup>lvii</sup>

#### *JK Paper company.*

The Indian firm JK Paper displaced indigenous peoples for a pulp mill in 2010 with IFC financing, prior to the FPIC requirement of PS7. In reinvestment in 2016, IFC applied PS7 but considered FPIC inapplicable because the displacement had already occurred. IFC reinvested in JK Paper in 2020 did not apply PS7 at all. It did not justify the decision.

#### *AdecoAgro*

Likewise, although AdecoAgro identified indigenous communities within 10 kilometers of farmlands in a 2016 IFC investment, a 2020 loan to the firm disclosed no evaluation of indigenous peoples. The 2020 loan to Adeco’s dairy branch is associated with feed crops that have decimated Wichí peoples lands in and near Gran Chaco. Argentina has no sourcing protocols in place for farming, and IFC has made no commitment to improve Adeco’s feed supply chain transparency or traceability, despite the risks to indigenous peoples from Argentina’s forestlands.<sup>lviii</sup>



## Where Indigenous designations would be politically controversial

Because IFC has never publicly articulated how it determines the indigeneity of affected communities and does not require clients to document how they determine indigeneity as defined in PS7, in some cases it is not possible to confirm whether PS7 is bypassed for political reasons or simply because IFC personnel and clients lack the expertise to recognize indigenous peoples. On numerous occasions, IFC documentation claims, falsely, that whole countries have “no indigenous peoples.” The claim has been made for projects in Nigeria, Egypt and Turkey (Wings SouthSouth, Pasabahce, and HKA, respectively). The Ogoni,<sup>lix</sup> Nubians,<sup>lx</sup> Copts, Kurds, Yazidis, Roma and other self-identifying indigenous peoples would dispute this characterization.<sup>lxi</sup>

IFC faces particular challenges upholding PS7 expectations for operations hosted by governments that dispute and resist indigenous rights. Because IFC operates in 115 countries, it is inevitable that some of these nations are hostile toward or dismissive of indigenous rights; it is specifically because indigenous peoples have so frequently been marginalized by the nations that claim their territories that they have been accorded specific protections. In countries where indigenous communities have sought greater autonomy, they have been categorized as treasonous, anti-state actors, rather than peoples entitled to self-determination. Their desire for autonomy is considered seditious. In such contexts, their internationally established rights are not being protected or promoted by their home states, creating challenges for international operators like the IFC to simultaneously uphold national law and respect indigenous peoples. In these cases, IFC hews to national interpretations rather than human rights.<sup>lxii</sup> The projects described below are illustrative rather than comprehensive of the issue.

### *Xinjiang Uyghur Autonomous Region, China*

China annexed Xinjiang in 1949, when the region was only 5% populated by ethnic Hans, after Uyghurs briefly gained sovereignty over their ancestral territories following disputes for control of Uyghurs’ resource-rich lands between Russia and China. Uyghurs speak their own Turkic language, have a distinct religion, governance and cultural system than either Russians or Hans, and have sought autonomy for decades if not centuries. Under Chinese rule, Beijing began colonizing the region with ethnic Hans and establishing business incentives for companies and Chinese citizens to establish themselves there. As of 2017 the region had become minority-Uyghur, and the Chinese government had begun criminalizing Uyghur displays of cultural heritage (wearing traditional garb, visiting Turkic countries) or religiosity (attending the Haj, visiting or contacting friends/relatives in Muslim-majority countries). Repression against Uyghurs has increased substantially since 2017, when the Chinese government began incarcerating Uyghurs for the activities listed above and placing their families in “work programs” hand-harvesting crops and conducting other manual labor. Since then, at least 1 million Uyghurs have been detained for vaguely defined crimes against the state, representing as much as 20% of the population in some municipalities. Prior to that, however, restrictions on Uyghurs had been widely reported, including the establishment of a massive surveillance state, tracking the cell phones and movements of all individuals across the region (indeed, criminalizing ownership of cellphones that cannot be tracked or cellphones not reported to the government).

IFC has made at least 10 investments in Xinjiang but only acknowledged Uyghur populations as indigenous in one (Chenguang Bio), triggering PS7 but opting not to require their FPIC for land conversion to agricultural inputs for the agricultural processing facilities operated by the company across several Uyghur municipalities. NomoGaia has examined these investments in detail in our March 2021 report.<sup>lxiii</sup>

Among the Xinjiang investments where IFC made no mention of Uyghurs or PS7, some carry risks of being directly associated with the region’s forced labor crisis. For example, IFC’s investment to expand Jointown Pharmaceuticals’ warehousing and operations in Xinjiang and other regions in 2019 coincided with Jointown’s construction of a massive new



warehousing facility directly adjacent to a sprawling detention facility for indigenous Uyghurs. The facility produces Traditional Chinese Medicines, made, in part, from agricultural inputs like hemp. IFC has not disclosed what percentage of the workforce is Uyghur or what wage rates are paid to workers. IFC has not responded to requests for clarification on how IFC is confident Jointown is not sourcing agricultural inputs from the neighboring prisoner agriculture.

Others of IFC's Xinjiang investments are more likely to be impacting Uyghurs through the Chinese government's deliberate colonization of indigenous territories and establishment of industries that recruit Han workers and displace Uyghurs from lands and livelihoods. For example, IFC bypassed PS7 for lead-acid battery recycling facilities owned by Camel Company in Xinjiang, on the grounds that the facilities were in state-owned industrial zones. Although the Environmental and Social Action Plan required the company to "Conduct a land acquisition review for two new projects in Xinjiang and Anhui in case previous farmer's lands were acquired by local government," no such review has been published.<sup>lxiv</sup> On the contrary, the lead smelter of the Xinjiang facility has been sited atop an ancient Uyghur irrigation network, called a Karez System. Karez systems are not only the source of water for Uyghur crops and livestock in the arid Gobi Desert, they are also central to a social organization, with social power allocated along the irrigation networks. The downgradient villages identified in the Camel EIA are all named for the Karez systems that sustain (or formerly sustained) them, yet the Karez systems and their Uyghur stewards are unmentioned in the project's 321-page EIA. The farmers downgradient from Camel's environmentally risky lead smelter are Uyghur and thus entitled to PS7 protections, but, like the EIA, IFC documentation makes no mention of Uyghurs.

Beijing has reacted forcefully against governments for voicing aversion to the repression of Uyghur peoples (including severely penalizing Australian traders), which may be disincentivizing IFC from even mentioning Uyghurs in current investments. IFC has engaged with the authors about these projects on a case-by-case basis but never articulated a rationale for excluding Xinjiang operations from PS7 protections. Politically, IFC lacks leverage to press for PS enforcement in China for two primary reasons. First, China is host to the second largest number of IFC investments worldwide (outpaced only by India). Because Beijing resists pressure on its Xinjiang actions, IFC is likely reluctant to jeopardize its broader China portfolio to advocate for PS7 protections for Uyghurs. Second, China is a major co-investor with IFC in funds and investment mechanisms in emerging markets. IFC's relationship to Beijing is so multifaceted that it would be difficult for IFC to assert pressure or withdraw.

#### *Andean Peru – Inca descendant Campesinos*

Peru is home to both Andean and Amazonian indigenous groups, whose communities and cultures predated Spanish colonization by centuries. Although Peru has established legal protections for Amazonian tribes, it has excluded Andean populations. In 2014 the World Bank acknowledged their indigeneity and the discrimination they face for speaking their ancestral language.<sup>lxv</sup> But these populations inhabit the resource-rich Andes, and endowing them with indigenous protections would substantially increase costs to petroleum and heavy metals miners operating in the high Andes.

IFC has made investments on Quechua campesino lands for decades, including, until 2017, an equity investment in the 'Minera Yanacocha' mining company operating in Yanacocha region. The operation has been the source of at least six CAO complaints, including one pertaining to indigenous protections. Despite this history with the region, in 2016 the IFC invested in a mining exploration firm, Tinka Resources, whose concession areas are held by the communities of San Pedro de Pillao and Yanacocha (the Ayawilka and Colqui projects, respectively) – the same Yanacocha where campesinos have vocally advocated to be recognized as indigenous and who have brought numerous complaints to the CAO regarding IFC investments encroaching on their lands in the past. The IFC documentation makes no mention of campesino Quechua communities, nor to their indigenous ties to land, cultural heritage or governance.





### *Kashmiri Pakistan*

Kashmir is a region straddling the India-Pakistan border, occupied by both nations since the partition in 1947. It is the ancestral home to population groups that are ethnically, linguistically, culturally and governmentally distinct from tribes in either Pakistan or India. Dating back to their occupation by the Mughals in the 17<sup>th</sup> and 18<sup>th</sup> centuries, Kashmiri poets have articulated their sense of regional belonging and cultural cohesion.<sup>lxvi</sup> This self-identification as distinct and tied to land has persisted through Afghan, Indian and Pakistani rule. Hydroelectric dams have had particular adverse impacts on indigenous peoples, both because they affect water flow for fisherfolk (who are denied fishing rights by the government), and because changes in river flows affect downstream crops that indigenous groups rely on, nutritionally and culturally.<sup>lxvii</sup>

IFC's hydropower project (HPP) investments in Kashmir are particularly notable for their exclusion of PS7, because a driver for IFC's involvement was to promote environmental and social sustainability through application of the Performance Standards. Two of these, the Gulpur HPP and the Karot HPP merit scrutiny. The Gulpur HPP, a 100MW dam and powerhouse located on the Poonch River in Kashmir was financed in 2014 with the aim of increasing the country's power supply while ensuring compliance with the PSs. While IFC closely reviewed the critical habitat assessment and the land acquisition and resettlement plan for the Gulpur hydro project,<sup>lxviii</sup> it never evaluated whether households that were physically or economically displaced had traditional ties to the critical habitats. The Project ESIA (available through the Asian Development Bank, ADB, not IFC) does not consider the presence of pastoralists at all, does not list indigenous tribes among the vulnerable and does not acknowledge that kinship ties, bonds to territories, governance reliant on elders, and local indigenous languages should trigger an indigenous evaluation.<sup>lxix</sup> Consultants concluded that all populations could be covered under a single livelihood restoration plan regardless of ethnicity or indigeneity without ever evaluating the ethnic or indigenous makeup of the affected communities.<sup>lxx</sup> The Land Acquisition and Resettlement Plan itself never overtly identifies the cultural ties of any affected households and did not pursue land-for-land resettlement or articulate whether traditional land stewards without formal titles might be affected.

Similarly, IFC invested in the 720MW Karot HPP on the Jhelum River, first in 2014 through an equity investment in China Three Gorges' renewable portfolio and then directly in 2015. IFC's additionality to the Karot hydroelectric project was its assurance "that the Project complies with IFC's Performance Standards," but no indigenous peoples review was documented.<sup>lxxi</sup> Karot is located on contested lands that were populated until 2013, when 16 villages were displaced to make way for the project. IFC describes them as "ethnically and religiously homogeneous," but, in permitting filings, the client reports that residents of these villages speak Punjabi, Hindko, Kashmiri and Saraiki and come from the ethnic groups Janjua, Gujjar, Qureshi, Satti, Malik, Sudhan and Rajput.<sup>lxxii</sup> Nomadic herders (the Gujjar) pass through the project area on annual migrations between high mountain pastures to lowlands. There is no documentation suggesting that IFC's client engaged with the Gujjar about their risks or cultural ties to their traditional herding grounds. This is the second of five planned hydropower projects on the Jhelum river, but while environmental impacts have been cumulatively assessed, indigenous peoples' usage of the river has not.

### *Jhimpir, Pakistan*

Kashmir is not the only region of Pakistan where indigeneity has been problematized. As Cultural Survival has noted in submissions to international human rights bodies, Pakistan's constitution and legal framework do not acknowledge Indigenous Peoples. "Instead, they are recognized as minorities, and typically their religious identity trumps their linguistic or ethnic identities."<sup>lxxiii</sup> The International Fund for Agricultural Development (IFAD) is direct in its criticism of World Bank activities across Pakistan: "The World Bank and Asian Development Bank (ADB) have been funding mega development projects in Pakistan for a long time. Such projects... have destroyed indigenous peoples' livelihoods." Even where indigenous communities conduct dialogs with Development Finance Institutions, however, IFAD found that such dialogs never





culminated in the application of indigenous peoples policies in Pakistan. The organization concluded: “A public debate on their policies on indigenous peoples is needed.”

One region of Pakistan that has seen outsized IFC investment is the Jhimpir region of Sindh province in southern Pakistan. IFC has invested in a series of wind power projects in the region (including five in 2019 alone). These projects are each small, but they require land acquisition that local residents say have been carried out without consultation or consent. Nomadic herders in the region go completely unnoted in project documents. IFC notes that there are no formal land claims in the Jhimpir corridor, but migratory communities have used the territories for generations. In both 2013 and 2016 Jhimpir communities protested the taking of their traditional lands.<sup>lxxiv</sup>

#### *Hill tribe areas of Vietnam*

In China and Pakistan, governments have sought to avoid determinations of indigeneity, preferring to make more limited acknowledgement of cultural or ethnic differences among citizens. Vietnam pursues a similar approach. While the Vietnamese government acknowledges the cultural distinctiveness of its Hill Tribes, it nullifies these groups ancestral land claims by instituting communist principles of communal land across the country. IFC has accepted this analysis on at least nine projects in Vietnam since 2012, including two in which IFC applied PS7 nominally but accepted government resettlement processes as adequate despite their disregard for indigenous communal land usage.<sup>lxxv</sup> Even in regions where indigenous evaluation would seem obvious, such as the coffee-growing regions of Dak Lak, where coffee plantations were historically a part of forced colonization of indigenous lands, no evaluation of indigenous impacts was undertaken.<sup>lxxvi</sup>



## Conclusion: Future outlook

The projects described here are not comprehensive of “missed” PS7 projects. NomoGaia identified 386 projects where PS7 seemed eligible but required field validation (see associated Excel sheet). NomoGaia likely missed others, because IFC has neither consistent procedures for *identifying* indigenous peoples, nor for *reporting* them. NomoGaia found references to indigenous peoples in ESRs, Environmental and Social Mitigation Measures documentation (variably in PS1 and PS7), in Stakeholder Engagement descriptions, and in Environmental and Social Action Plans. In some cases, indigenous peoples were referenced in project-level ESAs but wholly excluded from IFC due diligence. Likewise, IFC has not implemented a systematic approach for *benchmarking* potential impacts on indigenous peoples, let alone *monitoring* those potential impacts.<sup>lxxvii</sup>

Inconsistent documentation and evaluation has caused IFC to wrongly bypass PS7 in numerous projects. IFC and clients expand the suite of “missed” PS7 projects by only applying the Standard when adverse impacts are certain.<sup>lxxviii</sup> This approach fails the Performance Standards’ *risk-reduction* aims. Just as PS2 on labor rights is triggered whenever an operation will involve a workforce (not solely when workplace violations are confirmed), so should PS7 be applied before adverse impacts are assessed.<sup>lxxix</sup>

Although no clear trends in IFC’s portfolio indicate overall strengthening of

IFC’s PS7 evaluation, awareness of indigenous issues seems to be on the rise in specific contexts and/or industries. Awareness often follows on the heels of exposés and negative public reports. For example, IFC’s investments in Amazonian cattle farming have been halted since Global Witness began reporting on its links to deforestation. A recent IFC loan to Banco Continental Paraguay expressly noted that financing should not serve the cattle industry.

There is also at least one case where reinvestment in a sector triggered heightened due diligence: IFC’s 2014 investment in Cube Highways made no mention of impacted SCs, but its 2020 investment in Oriental Infra’s very comparable highway operations applied PS7 (though not FPIC). PS7 failures in Papua New Guinea have been followed by consistent consideration of indigenous rights in ensuing investments in the country.

There are also examples of heightened scrutiny on projects with potential indigenous risks in the Asia-Pacific Region. In 2020 at least two indigenous-related projects disclosed by IFC were later denied financing. These projects, Golden Towers Vietnam (a cell tower investment that carried potential risks to Vietnamese hill tribes) and Muyuan pig farming in China’s frontier regions (where abattoirs have triggered indigenous protests) would have been difficult for IFC to finance in compliance with PS7 without running afoul of government policies. IFC does not disclose why it declines

investment opportunities, making it impossible to know whether a PS7 evaluation was a factor. Nevertheless, it suggests that IFC (or strategic personnel at IFC) has internalized challenges with past investments to better guide decision making.

Additionally, there is at least one corporate-level investment that committed to ongoing PS7 review and then followed through. The 2016 Summit Mezzanine investment financing power production in Bangladesh committed to evaluate installations for indigenous rights as the portfolio was finalized.<sup>lxxx</sup> The initial proposed footprints were relatively low-risk for indigenous impacts but the fund ultimately financed a power station in the Chittagong Hill Tribe regions. Adhering to the requirements of its ESAP, Summit commissioned a PS7 review of the Chittagong footprint, achieving an agreement with the affected community after consultation. This is the only case NomoGaia identified where a client followed through in a publicly documented manner. Regrettably, IFC does not include the PS7 analysis or FPIC process on its disclosure page, raising questions of whether IFC’s commitment to its performance standards was a driver of this process or ancillary.

These positive applications of PS7 are exceptional rather than standard and are unlikely to guide future PS7 application processes unless IFC changes its approaches to its Indigenous Peoples Standard.



## Recommendations

To systematize PS7 application, IFC should take the steps listed below. Absent these substantial changes to IFC's current ad-hoc application of PS7, the bank cannot legitimately claim to be safeguarding indigenous peoples. On the contrary, as its portfolio demonstrates, it continues to jeopardize their rights.

- **Expand (in depth and duration) PS implementation oversight for corporate-level investments where footprints are unknown.** Without this change, IFC cannot assure effective oversight of PS7 application, because finance that precedes establishment of a footprint cannot guarantee that the client obtains FPIC *prior* to impacts *where* it is deemed necessary. These non-footprint investments need to be monitored for a longer duration with more involvement.
- **Incorporate indigenous due diligence across all of a client's operations in equity investments.** This will significantly increase IFC's scrutiny and oversight of investments in massive agricultural and infrastructural conglomerates, to the benefit of indigenous populations worldwide. At present IFC's selection of sites for field review is not driven by PS7 analysis. Requiring equity investments in massive conglomerates to actively demonstrate an understanding of indigenous risks would, based on the available evidence in IFC's current portfolio, significantly adjust such investments' risk profile and, ideally, instill heightened caution in such investments.
- **Apply PS7 in all operations where an indigenous presence is possible, not confirmed.** Currently IFC relies on designations in the ESIA to apply PS7. However, ESIA's are often permitting documents submitted to governments. Where host states refute the legitimacy of indigenous claims to resources, clients and consultants are disincentivized from acknowledging indigenous rights in such documents. As such, PS7 analysis should not be tied to permitting documents and should be applied in all projects where indigenous presence is possible.
- **Publish the database IFC uses to identify indigenous communities and define indigeneity.** IFC currently has no on-staff indigenous expertise (with the possible exception of a single new hire in the Asia-Pacific region). As such, the IFC is ill-equipped to identify indigenous populations, as exhibited by blanket statements misidentifying whole countries as having "no indigenous peoples". If IFC personnel are making these determinations based on an internal resource, IFC should publish it so that indigenous communities can assert their presence. If IFC has no such database, it is incumbent on IFC to publicly document how its personnel conclude that indigenous peoples are absent. The assumption should be that indigenous communities are present at IFC clients' rural footprints until confirmed absent.
- **Use consideration of "associated facilities" to guide indigenous analysis.** This shift, particularly in logistics, transportation and industrial inputs investments, would enable IFC to recognize that investment in any part of an industrial value chain that harms indigenous populations is directly linked to those adverse impacts.
- **Evaluate project impacts based on indigenous use of resources, not on indigenous claims to land.** To account for (a) the inadequacy of government demarcation of indigenous territories, (b) the reality that indigenous livelihoods and cultures are often tied to resources rather than lands, and (c) the migratory nature of many indigenous communities, IFC should move away from the footprint-restricted analysis of impacts to determine impacts based on the lived experiences of indigenous communities. This will necessitate a broadening of IFC's impact analysis beyond the direct footprint (akin to how IFC already analyzes impacts on endangered species and environmental habitats).
- **Where due diligence on indigenous impacts is impossible, IFC should divest and halt all new investments.** Currently, the Xinjiang region of China presents the clearest need for such an approach. Following the approach of the Fair Labor Association (FLA), IFC should acknowledge that due diligence is now impossible in the region and halt all future investments while closely reconsidering all active investments.<sup>lxxxix</sup> There are numerous IFC clients operating in regions where repression of indigenous communities is severe, however, and IFC does not have an established policy for assuring that compliance with national law does not equate to violation of international indigenous protections. These locations where indigenous designations are politically controversial (High Andes, Kashmir, Vietnam, Myanmar, Ethiopia, etc.)



## References

<sup>i</sup> Martins Maia, R d O. Territorialidades específicas em Barcarena confrontadas com projetos de "Desenvolvimento". Universidade Federal do Para. Belem 2017.

<sup>ii</sup> The state-required environmental and social impact assessment (RIMA) does not identify any quilombos. The study group interviewed only one quilombola person – Maria Soccoro – a highly politicized figure who resides in the quilombo of her husband but comes from a fully destroyed quilombo that existed further up the coast, removed by the establishment of the aluminum industry in the 1980s. Even with such limited interaction with quilombolas, the study group found that, of the 29 people interviewed (in a region with a population of over 120,000, including at least 5 quilombos and over 30 neighborhoods), the only anticipated benefit foreseen by more than 5 respondents was “income and employment.” The port does not employ any quilombolas, according to interviews conducted in 2019, and the income generated for the municipality is not shared with traditional and quilombola communities, which are not acknowledged by the municipal leadership despite registration through federal institutions. [https://www.sembras.pa.gov.br/wp-content/uploads/2017/08/rima/rima\\_vila\\_do\\_conde.pdf](https://www.sembras.pa.gov.br/wp-content/uploads/2017/08/rima/rima_vila_do_conde.pdf)

<sup>iii</sup> Hidrovias do Brasil (HDB) Project Disclosure Page. IFC <https://disclosures.ifc.org/#/projectDetail/ESRS/34846>

<sup>iv</sup> Amazon Waters. Fisheries. <https://amazonwaters.org/fisheries/>; Geography: River Mouth Bays <https://amazonwaters.org/fisheries/geography/river-mouth-bays/>

<sup>v</sup> Large hydroelectric dams are the other force substantially recontouring the rivers and tributaries of the Amazon basin. <https://granta.com/munduruku/>

<sup>vi</sup> In three others, the national government published such an agreement but IFC did not. See: <http://nomogaia.org/indigenous-peoples-and-the-ifc-fpic/>

<sup>vii</sup> Brazil, China, Colombia, India, Kenya, Malaysia, Nepal, PNG, Paraguay, Vietnam. IFC considered possible PS7 implementation in Argentina, Costa Rica, Dominican Republic, Gabon, Indonesia, Iraq, Mexico, Nigeria, Pakistan and Romania but concluded that IPs were not present.

<sup>viii</sup> <http://www.ruralfinanceandinvestment.org/sites/default/files/IFC-AnnualReport-2018.pdf>

<sup>ix</sup> This screen is actually too narrow to comply with the language of PS7, which expressly includes indigenous peoples displaced by industry or government authorities in their lifetimes. Nevertheless, because the presence of indigenous peoples could not be field-validated, and to keep the findings as conservative as possible, this narrow approach was taken.

<sup>x</sup> IFC Environmental and Social Sustainability Policy. 2012. [https://www.ifc.org/wps/wcm/connect/topics\\_ext\\_content/ifc\\_external\\_corporate\\_site/sustainability-at-ifc/policies-standards/sustainability-policy/sustainability-policy](https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/sustainability-policy/sustainability-policy)

<sup>xi</sup> Averaging all complaints from 2000-2020, the mean lag is 3.75 years. If the analysis excludes the 27 complaints against the BTC pipeline in eastern Europe, most of which were filed within a year of investment, the average rises to 4.17 years.

<sup>xii</sup> [http://www.cao-ombudsman.org/cases/document-links/documents/CAOAAppraisalMyanmaAwba\\_web.pdf](http://www.cao-ombudsman.org/cases/document-links/documents/CAOAAppraisalMyanmaAwba_web.pdf)

<sup>xiii</sup> IFC (2016) ESRS, Myanma Abwa. Available at: <https://bit.ly/2XITBhr>

<sup>xiv</sup> The exception might be engagement with Batak communities adjacent to the PT Bajradaya Sentranusa hydropower company. However, IFC’s proposed investment is not on the existing HPP on Batak lands but for other greenfield HPPs whose footprints and locations are not disclosed at all.

<sup>xv</sup> ERM ESIA, 2016 p. 4-116

<sup>xvi</sup> “ni el personal del Proyecto, ni los consultores que realizaron el ESIA sobre el terreno, observaron o identificaron personas o grupos indígenas durante sus múltiples visitas e interacciones con las comunidades. Igualmente durante los talleres de diagnóstico rural participativo o las entrevistas mantenidas con las autoridades locales, no se realizó ningún hallazgo al respecto. (ERM ESIA Appendix O, ESMP, 2017, p. 7-2)

<sup>xvii</sup> [https://www.hastingslawjournal.org/wp-content/uploads/Yue\\_The-Weaponization-of-Facebook-in-Myanmar.pdf](https://www.hastingslawjournal.org/wp-content/uploads/Yue_The-Weaponization-of-Facebook-in-Myanmar.pdf)

<sup>xviii</sup> On how forced conversion to Islam has been erasing indigenous Pakistani cultures for decades, see: e.g. Cultural Survival, Observations on the State of Indigenous Human Rights in Pakistan. Prepared for: The 28th Session of the United Nations Human Rights Council Universal Periodic Review March 2017). In Xinjiang, China, leading scholars have argued that Beijing’s decision to make Uyghur children charges of the state, dress them in Han clothing and teach them Mandarin is a form of forced assimilation and ethnic cleansing, ridding Xinjiang of Uyghur culture and Islam (Cronin-Furman, Kate. "China Has Chosen Cultural Genocide in Xinjiang—For Now". Foreign Policy. 2018).

<sup>xix</sup> Dak Lak was the site of gross violations against indigenous Montagnards in 2002, as reported by HRW: <https://www.hrw.org/reports/2002/vietnam/viet0402-03.htm>. The same language was used for the Fenglin III project in 2017 in Guangxi, home to at least 10 ethnic minority groups

<sup>xx</sup> Apache Cement. STC Cement Plant – Waste Heat Recovery Project in Mandalay Region, Myanmar. IEE Report. 14 August 2019. Proj No. 0376771, Page 187 [https://www.apachecement.com/wp-content/uploads/2020/01/STC\\_WHR\\_IEE\\_Final.pdf](https://www.apachecement.com/wp-content/uploads/2020/01/STC_WHR_IEE_Final.pdf) At the STG Cement project in Mandalay region, Myanmar, IFC notes that Karen, Danu, Rakhine, Kachin and Shan households in the project area (within three kilometers of the cement facility, with others proximate to coal mines and limestone quarries). However, it concludes that PS7 is not applicable because the ethnic minorities can speak Bamar and are alleged not to have ties to land or customary institutions in place. IFC does not articulate how it concluded such ties and systems are absent, and while summary documents claim these populations were “interviewed... as part of the project’s supplementary ESIA process”, the supplementary ESIA makes no mention of ethnic minorities at all. The national coordinator for Myanmar (MATA), U Ye Lin Myint, directly queried STG about the elimination of IPs from the supplementary ESIA. IFC reiterated that it had not “found” ethnic traditions but instead believed that “opening up access to areas” meant that “livelihoods have been improved.”

<sup>xxi</sup> Fontes de Ventos cluster adjacent to known IPs, the Pankararu tribe. Pankararu lands are established as a quadrilateral polygon, whose border is less than 4 kilometers from the nearest turbine (the Pankararu also use the Entre Serras lands, which directly abut the leased lands for the farm). Pankararú Terra Indígena, State of Pernambuco, Brazil

<sup>xxii</sup> Manual de Jurisprudencia dos Direitos Indígenas. MPF 6th Camara de Coordenacao e Revisao. 2019. P. 44-51





<http://www.mpf.mp.br/atuacao-tematica/ccr6/documentos-e-publicacoes/manual-de-atuacao/manual-de-jurisprudencia-dos-direitos-indigenas.pdf>

<sup>xxxiii</sup> Randall, S. Where have all the nomads gone? Fifty years of statistical and demographic invisibilities of African mobile pastoralists. *Pastoralism*. 22(5). 2015 <https://pastoralismjournal.springeropen.com/articles/10.1186/s13570-015-0042-9>

<sup>xxxiv</sup> See, e.g. de Leeuw, S. Tender grounds: Intimate visceral violence and British Columbia's colonial geographies, *Political Geography*, 52(14-23) 2016 doi.org/10.1016/j.polgeo.2015.11.010.

<sup>xxxv</sup> "The monopoly of food and agriculture markets by a few agri-businesses, are further compromising the autonomous decision-making capacities of small and marginal farmers vis-a-vis what they grow on their fields, and pushing them into debt-based commodity production of monocrops. What is grown is then sold, and in turn they are forced to buy food, rather than cultivate food to eat first, and then sell the surplus" Misereor. <https://foodsovereigntyalliance.files.wordpress.com/2018/12/Report-1.pdf>

<sup>xxxvi</sup> Jain IV, 2018, Project #40251; Netafim, 2020 Project #44420; Deepak Fertilizers, 2019, Project #40406; ETC India, 2020, Project #43027; Srinivasa, 2018 Project # 41149; Suguna III, 2020, Project #42834; DCM Shiriram, 2019, Project # 42346; NCML Silos, 2020 Project #43587; Global shipping of agricultural products through VCT II, 2019, Project #41434, domestic transportation through Blackbuck, 2017 Project #39420. In some investments, e.g. agricultural trading companies, all these elements of agricultural expansion and trade are integrated in a single investment that still does not consider the roles of or potential impacts on indigenous land users beyond the aspiration to "improve livelihood by enhancing yields and incomes" – an outcome divorced from self-determination rights, regardless of intent.

<sup>xxxvii</sup> The same client also invested in 3000 hectares of new coffee plantation in Bukidnon, a province named for the indigenous peoples that steward it. IFC describes this land as "already converted land" that it "owns." <https://pia.gov.ph/news/articles/1003033>

<sup>xxxviii</sup> This reality actually drove the establishment of ILO169. ILO identified as a labor violation the condition whereby indigenous peoples were displaced from their lands and then rehired as unskilled labor on their ancestral territories.

<sup>xxxix</sup> Setrag railway Summary of Investment. <https://disclosures.ifc.org/#/projectDetail/SII/42222>; Indigenous World Gabon. <https://www.iwgia.org/en/gabon.html>

<sup>xxx</sup> Southey, F. Olam clashes with NGO over palm oil zero deforestation pledges: 'We strongly refute the factually inaccurate and false allegations' 2 Apr 2020. Food Navigator. <https://www.foodnavigator.com/Article/2020/04/02/Olam-clashes-with-NGO-over-palm-oil-zero-deforestation-pledges-We-strongly-refute-the-factually-inaccurate-and-false-allegations>; BHRRC, Gabon, <https://www.business-humanrights.org/en/latest-news/olam-creating-black-box-of-palm-oil-from-unknown-sources-fuelling-deforestation-from-gabon-to-indonesia-ngo-report/>

<sup>xxxi</sup> The conditions of bonded labor have history in Indian caste-based feudalism, but as low-productive lands used by SC/ST people are converted by irrigation, the levels of exploitation have sharply increased. See, e.g. [http://globalmarch.org/wp-content/uploads/2020/Paradox%20of%20the%20Sweetest%20Crop\\_GM.pdf](http://globalmarch.org/wp-content/uploads/2020/Paradox%20of%20the%20Sweetest%20Crop_GM.pdf)

<sup>xxxii</sup> In January 2020 Olam announced the intention to enter the sugar sector. It is not clear whether IFC's loans were sold along with the industry investments. The recent change in ownership is not pertinent to

the question of whether IFC's due diligence was adequate at the time of investment.

<sup>xxxiii</sup> Sax, S. & Angelo, M. Communities in Brazilian Cerrado besieged by global demand for soy. Mongabay. 13 Jan 2020. <https://news.mongabay.com/2020/01/communities-in-brazilian-cerrado-besieged-by-global-demand-for-soy/>

<sup>xxxiv</sup> Cofco Noble II 2017 <https://disclosures.ifc.org/#/projectDetail/ESRS/37939>

<sup>xxxv</sup> IFC indicated that the long-planned merger between Cofco-Noble and Cofco-China triggered its withdrawal. In light of Cofco's recent association with forced labor in Xinjiang, it is possible that IFC had internalized the plight of Uyghurs as a result of new sanctions placed on Cofco's Chinese subsidiaries. It is difficult to say whether this is a commitment to indigenous peoples or a reluctance to run afoul of US regulatory shifts.

<sup>xxxvi</sup> [https://bankinformationcenter.cdn.prismic.io/bankinformationcenter%2F8cf66954-5e95-4f05-a16b-8025b38fa826\\_spirited-away-mongolia-mining.pdf](https://bankinformationcenter.cdn.prismic.io/bankinformationcenter%2F8cf66954-5e95-4f05-a16b-8025b38fa826_spirited-away-mongolia-mining.pdf)

<sup>xxxvii</sup> Investment is Pending. IFC discloses this as not involving an expanded footprint, but doubling output requires doubling the amount of feed for poultry. This will either be operational footprint or supplier base, in India (including tribal Odisha), Bangladesh or Kenya. ESAP recognizes supply chain issues but not from an indigenous peoples perspective. The ESAP item observes that Suguna hasn't mapped its supply chain or evaluated the E&S risks they carry. It hasn't written a supply chain compliance procedure, a screening process, an audit system, or a penalty protocol for noncompliance.

<sup>xxxviii</sup> Reddy, C.S., Jojiah, K. Rao, N.V., Narasiah, I. Land and Income Inequalities in Rural Andhra Pradesh. 2012. <https://www.cpim.org/marxist/201202-Land-Inequalities-AP.pdf>

<sup>xxxix</sup> Forced eviction of indigenous communities for road construction and road-widening projects continues to be a problem in India – in 2019 over 3,600 people were displaced for road infrastructure projects. Authorities claim that houses are built "illegally" and penalize communities for protesting. On 1 November 2019, the administration of the Union Territory of Dadra and Nagar Haveli and Daman and Diu demolished 135 houses of families living in Ishkati Sheri Machhiwad Village, on a stretch between Lighthouse Road and Jampore Beach. While the administration claims the houses were built 'illegally' in the coastal area, the affected families believe their homes were demolished for a tourism project aimed at developing the area and beautifying the Daman Fort. Most of those affected belong to a fishing community that had been living at the site for over 10 years. A day after the eviction, several affected persons, including women, protested against the demolition of their houses. In response, authorities issued prohibitory orders and imposed Section 144 of the Criminal Procedure Code (banning assembly of more than four persons) in the area.

[https://www.hlrn.org.in/documents/Forced\\_Evictions\\_2019.pdf](https://www.hlrn.org.in/documents/Forced_Evictions_2019.pdf)

<sup>xl</sup> Final ESAP NAMEL <https://disclosures.ifc.org/project-detail/ESRS/34415/cube-highways>

<sup>xli</sup> Final ESAP Farakka Raiganj (ibid.)

<sup>xlii</sup> This language also characterized investments where the client would develop its own new assets, e.g. CSAIL (power projects in Pakistan), Niko (petroleum in India/Bangladesh) and MCS Property (housing for mine workers in indigenous Mongolian herding lands), as well as De-lonex oil exploration in Kenya, which instigated a CAO complaint.

<sup>xliii</sup> Kilbane Gockel, C., and L. C. Gray 2011. Debt-for-nature swaps in action: two case studies in Peru.



Ecology and Society 16(3): 13 <https://www.ecologyandsociety.org/vol16/iss3/art13/ES-2011-4063.pdf>

<sup>xliv</sup> Fagan, C. Coca farms close in on protected areas, isolated tribes in Peruvian Amazon. Mongaba. 9 Dec 2019. <https://news.mongabay.com/2019/12/coca-farms-close-in-on-protected-areas-isolated-tribes-in-peruvian-amazon/>

<sup>xlv</sup> Oyu Tolgoi. CAO. [cao-ombudsman.org/cases/case\\_detail.aspx?id=196](http://cao-ombudsman.org/cases/case_detail.aspx?id=196)

<sup>xlvi</sup> IFC Press Room <https://press-room.ifc.org/all/pages/PressDetail.aspx?ID=16242>

<sup>xlvii</sup> Samar, J. Eight companies told to cease royalty payments to illegitimate landowners at Roku. Masalai. 30 September 2014. <https://masalai.wordpress.com/2014/09/30/eight-companies-told-to-cess-royalty-payments-to-illegitimate-landowners-at-roku/>

<sup>xlviii</sup> Filer, C. Two steps forward, two steps back: the mobilization of customary land in Papua New Guinea. Australian National University Discussion Paper 86. Dec 2019 <https://ssrn.com/abstract=3502585>

<sup>xlix</sup> AES Port Services and Wharf <http://www.aespng.com/port/>

<sup>i</sup> Sax, S. Cattle put Paraguay's Chaco biome at high risk, but report offers hope. Mongabay. 8 April 2020. <https://news.mongabay.com/2020/04/cattle-put-paraguays-chaco-biome-at-high-risk-but-report-offers-hope/>; Survival International. The Uncontacted Frontier. <https://www.survivalinternational.org/tribes/amazonuncontactedfrontier>

<sup>ii</sup> Global Witness. Beefs, Banks & the Brazilian Amazon. 2 Dec. 2020. <https://www.globalwitness.org/en/campaigns/forests/beef-banks-and-brazilian-amazon/>

<sup>iii</sup> Barros, C. J. Brazilian meat industry encroaches on Paraguayan Chaco. Reporter Brasil. Jul 2018. <https://reporterbrasil.org.br/2018/07/brazilian-meat-industry-encroaches-on-paraguayan-chaco/>; Hofmeister, N. Brazilian meatpacker expands with World Bank funding but fails to reduce impacts in the Amazon. Mongabay. Jul 2020. <https://news.mongabay.com/2020/07/brazilian-meatpacker-expands-with-world-bank-funding-but-fails-to-reduce-impacts-in-the-amazon/>

<sup>liii</sup> Global Witness, 2020

<sup>liv</sup> Secretariat, UN Human Rights Council. Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, on her mission to Paraguay. 20 Jul 2018. A/HRC/39/52/Add.1 <https://www.documentcloud.org/documents/6983667-ONU-Chaco.html>

<sup>lv</sup> IFC has additional investments in Amazonian animal husbandry, both through Advisory Services directly to the industry, which piloted in the Chaco but made no mention of indigenous peoples, and through financial intermediaries like Bancop, which was financed expressly to support farming and cattle raising. These investments are outside the scope of this review (which evaluated Category A and B projects), but it hints at how IFC's exposure to PS7 risk goes beyond the Category A and B portfolio.

<sup>lvi</sup> Gov. of India. National Commission for Scheduled Tribes. Case File No. AK/1/2017/STGM/DEOTH/RU-IV regarding non payment of loss compensation (Muavja) for the damage of land and trees etc... due to the formation of High Tension Electric Line by PGCIL. 3 Jun 2019. [https://ncst.nic.in/sites/default/files/hearings\\_proceedings/2592.pdf](https://ncst.nic.in/sites/default/files/hearings_proceedings/2592.pdf)

<sup>lvii</sup> Xiang Nian II's new facility is in the trade zone at the border of Khoros. The Government of China procured this land without displacing homes, but its function is to colonize the area with non-Uyghur workers, facilitate 'disappearance' of Uyghurs crossing the international border, and incorporate Xinjiang more directly into the Chinese economy.

This resembles the "colonization" style of impacts on indigenous peoples rather than the "direct displacement" impacts.

<sup>lviii</sup> Goñi, U. Soy destruction in Argentina leads straight to our dinner plates. The Guardian. 26 Oct 2018. <https://www.theguardian.com/environment/2018/oct/26/soy-destruction-deforestation-in-argentina-leads-straight-to-our-dinner-plates>; University of Maryland and NASA.

Soy Expansion in the Chaco Forest, Argentina. Geospatial Mapping. <https://lcluc.umd.edu/hotspot/soy-expansion-chaco-forest-argentina>

<sup>lix</sup> See, e.g. Cultural Survival. A Brief History of the Indigenous Peoples of West Africa. June 2006 <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/brief-history-indigenous-peoples-west-africa>

<sup>lx</sup> Bohn, L. Egypt's Forgotten Indigenous Minority. Pulitzer Center. 21 May 2013. <https://pulitzercenter.org/reporting/egypts-forgotten-indigenous-minority>; Minority Rights Group International, *World Directory of Minorities and Indigenous Peoples - Egypt*, October 2017, available at: <https://www.refworld.org/docid/4954ce291c.htm>

<sup>lxi</sup> Minority Rights Group International, *World Directory of Minorities and Indigenous Peoples - Turkey*, November 2011, available at: <https://www.refworld.org/docid/4954ce3fc.html>

<sup>lxii</sup> There are limited exceptions to this – IFC flagged PS7 in the Chenguang Bio investment in Xinjiang and two other operations, but in all cases it left land acquisition and conversion in the hands of government and has never allowed for the Free, Prior and Informed Consent of these people to be affected by IFC-supported investments.

<sup>lxiii</sup> Salcito, K. IFC and the Uyghur Genocide: due diligence gaps in IFC's Xinjiang investments. NomoGaia, 2021. <http://nomogaia.org/report-ifc-and-the-uyghur-genocide-due-diligence-gaps-in-ifcs-xinjiang-investments/>

<sup>lxiv</sup> Camel Group 2019 <https://disclosures.ifc.org/#/projectDetail/ESRS/41128>

<sup>lxv</sup> Casma, J. C. Discriminated against for speaking their own language. 16 Apr 2014. <https://www.worldbank.org/en/news/feature/2014/04/16/discriminados-por-hablar-su-idioma-natal-peru-quechua>

<sup>lxvi</sup> Chen, Yu-Wen; Shih, Chih-Yu (2016), *Borderland Politics in Northern India*, Routledge, 2016, p. 43.

<sup>lxvii</sup> After the construction of the Kotari Barrage on Indus, the fishermen of downstream Sindh shifted to the upstream areas of Indus, where the Kihals and Mors live. Sindhi fishermen purchase fishing permits and hire Kihals as fishing labour for low wages. Strict restrictions are imposed on fishing by the Kihals, even for their own kitchens. IFAD and AIPP. Country Technical Notes on Indigenous Peoples' Issues (Pakistan). Nov 2012 [https://www.ifad.org/documents/38714170/40224860/pakistan\\_ctn.pdf/e61c7750-b616-423d-a7b3-cf2f886b47ae](https://www.ifad.org/documents/38714170/40224860/pakistan_ctn.pdf/e61c7750-b616-423d-a7b3-cf2f886b47ae)

<sup>lxviii</sup> Stefan, C. et al. Critical Habitat Assessment using IFC PS6 Criteria. IAIA13 Conference Proceedings. May 2013. Calgary. <https://conferences.iaia.org/2013/pdf/Final%20papers%20review%20process%2013/Critical%20Habitat%20Assessment%20using%20IFC%20PS6%20Criteria.pdf>

<sup>lxix</sup> Gulpur HPP ESIA. [adb.org/sites/default/files/project-document/78796/47929-001-esia-01b.pdf](http://adb.org/sites/default/files/project-document/78796/47929-001-esia-01b.pdf); <https://www.adb.org/sites/default/files/project-document/78796/47929-001-esia-01a.pdf>

<sup>lxx</sup> Gulpur HPP RAP. <https://www.adb.org/sites/default/files/project-document/149850/47929-001-rp-02.pdf>

<sup>lxxi</sup> Karot Hydro 2017 <https://disclosures.ifc.org/#/projectDetail/ESRS/36008> Although the project is Category A, IFC has not disclosed an ESIA or any supplementary documentation for the project.



<sup>lxxii</sup> Karot HPP. ESIA. [http://www.epaajk.gok.pk/uploadfiles/download/Updated%20ESIA\\_Karot%20HPP\\_%20Report2-compressed.pdf](http://www.epaajk.gok.pk/uploadfiles/download/Updated%20ESIA_Karot%20HPP_%20Report2-compressed.pdf)

<sup>lxxiii</sup> Cultural Survival. Convention on Economic, Social and Cultural Rights: Alternative Report Submission Violations of Indigenous Peoples' Rights in Pakistan Prepared for the 61st Session, Geneva, 29 May - 23 June 2017

<sup>lxxiv</sup> Dawn Newspaper. Protest over 'excesses' by Sindh govt. 31 Jan 2016 [www.dawn.com/news/1236390](http://www.dawn.com/news/1236390); Protests over land grab by influential Figures. 10 Mar 2013 [www.dawn.com/news/791569](http://www.dawn.com/news/791569)

<sup>lxxv</sup> In order of investment date: CCL Products, Masan Consumer, Pan Pacific VN, GEC (nominal PS7 application), Bel Ga, JSC Golden Towers, PAN Farm, Nafoods Group (Nominal PS7 application), AC Energy Green Bond, PMH Property

<sup>lxxvi</sup> CCL Products, 2012

<sup>lxxvii</sup> IFC personnel confirmed that no protocols exist to standardize these processes in written communications from Q4 2020

<sup>lxxviii</sup> One of the most recent examples is the STC in Myanmar, where in January 2020, the IFC (Ben Li) reported that it "decided not to trigger PS7" because the indigenous peoples are "mostly second generation" and have "no significant ethnic traditions" Mr. Li says the conclusion followed IFC and consultant field visits but does not say how these impacts were determined. The project also plans a carbon offset project

in a national park deep in indigenous lands. By opting to bypass PS7 based on IFC evaluations of one community, it essentially closed the door to PS7 protections for other communities at risk of far more severe impacts. Meeting Minutes July 18, 2017, Novotel Hotel, Yangon [https://www.apachecement.com/wp-content/uploads/2020/01/STC\\_WHR\\_IEE\\_Final.pdf](https://www.apachecement.com/wp-content/uploads/2020/01/STC_WHR_IEE_Final.pdf)

<sup>lxxix</sup> "The applicability of this Performance Standard is established during the environmental and social risks and impacts identification processes."

<sup>lxxx</sup> "SCL and its subsidiaries currently have no procedure for identification of indigenous peoples (IPs). Going forward, SCL will, as part of the ESMS, develop and implement a procedure to identify and mitigate all identified impacts on IPs. SCL will ensure that the ESIA is undertaken in accordance with the provisions of IFCs PS 7 and mitigation plans achieve outcomes consistent with PS 7 provisions. The ESIA to be done for all proposed/ acquired projects will be required to cover the potential impact on IPs, if any and be supplemented by an Indigenous Peoples Development Plan (IPDP)."

<sup>lxxxi</sup> Fair Labor Association. FLA Statement on Sourcing From China. 23 Dec 2020. <https://www.fairlabor.org/blog/entry/fla-statement-sourcing-china>