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978-0-521-76260-1 - Global Project Finance, Human Rights and Sustainable Development

Edited by Sheldon Leader and David Ong

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GLOBAL PROJECT FINANCE, HUMAN RIGHTS AND SUSTAINABLE DEVELOPMENT

Many infrastructure projects around the world are funded through the project finance method, which often combines private financing with public sector backing from multilateral finance institutions such as the World Bank/IFC. This examination of the theoretical and practical implications of such funding begins with a discussion of the relationship between the structuring of these projects and finance, policy and legal disciplines, especially in the form of investment law, human rights and environmental law. A number of case studies are then examined to provide practical insights into the application (or otherwise) of human rights and sustainable development objectives within such projects. While these perspectives do not conclude that the project finance method necessarily detracts from the application or implementation of human rights and sustainable development objectives, they do highlight the potential damage that can result from the prioritization of investment returns at the expense of human rights and environmental protection standards.

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ABBREVIATIONS

| | |
|-------|---|
| ACHR | American Convention on Human Rights |
| ASEAN | Association of South East Asian Nations |
| BIT | bilateral investment treaty |
| CAO | Compliance Advisor/Ombudsman |
| CDAP | Caspian Development Advisory Panel |
| CEDAW | Convention on the Elimination of all Forms of Discrimination Against Women |
| CERD | [UN] Committee on the Elimination of Racial Discrimination |
| CESCR | [UN] Committee on Economic, Social and Cultural Rights |
| CITES | Convention on International Trade in Endangered Species |
| CSR | corporate social responsibility |
| DFID | UK Department for International Development |
| EBRD | European Bank for Reconstruction and Development |
| ECA | export credit agency |
| ECE | Economic Commission for Europe |
| ECHR | European Convention on Human Rights and Fundamental Freedoms |
| ECtHR | European Court of Human Rights |
| EHS | [WB Group] Environmental Health and Safety |
| EMMP | environmental management and monitoring plan |
| EP | Equator Principle/Equator Principles |
| EPA | Environmental Protection Agency |
| EPFI | Equator Principles Financial Institution |
| ESCR | [UN Committee on] Economic, Social and Cultural Rights; economic, social and cultural rights |
| ESIA | environmental and social impact assessment |
| ESRC | Economic and Social Research Council |
| EU | European Union |
| FDI | foreign direct investment |
| GATT | General Agreement on Tariffs and Trade |
| GDP | gross domestic product |
| GESY | governance and efficiency of economic systems |
| GIIP | good international industry practice |
| HGA | host government agreement |
| HRIA | human rights impact assessment |
| HRMP | human rights management plan |

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| | |
|--------|---|
| HSE | health, safety and environment |
| IACtHR | Inter-American Court of Human Rights |
| IBLF | International Business Leaders Forum |
| IBRD | International Bank for Reconstruction and Development |
| ICCPR | International Covenant on Civil and Political Rights |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| ICJ | International Court of Justice |
| ICRG | International Country Risk Guide |
| IEC | independent environmental consultant |
| IFC | International Finance Corporation |
| IFI | international financial institution |
| ILO | International Labour Organization |
| IMO | International Maritime Organization |
| ISO | International Standards Organization |
| ISRP | Independent Scientific Review Panel |
| ITLOS | International Tribunal for the Law of the Sea |
| IUCN | International Union for the Conservation of Nature |
| LIBOR | London Interbank Offered Rate |
| MEA | multilateral environmental agreement |
| MIGA | Multilateral Investment Guarantee Agency |
| MNC | multinational corporation |
| MNE | multinational enterprise |
| MOU | memorandum of understanding |
| NGO | non-governmental organization |
| OECD | Organization for Economic Cooperation and Development |
| OPIC | [US] Overseas Private Investment Corporation |
| OSPAR | Paris Convention on the Protection of the Marine Environment of the North East Atlantic |
| PF | project finance |
| PIFI | public international financial institution |
| plc | public limited company |
| PRI | political risk insurance |
| PS | [IFC] Performance Standards |
| PSA | production-sharing agreement |
| R&D | research and development |
| SEA | strategic environmental assessment; social and environmental assessment |
| SEMS | social and environmental management system |
| SIA | social impact assessment |
| SPV | special purpose vehicle |
| TIA | transnational investment agreement |
| TNC | transnational corporation |

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| | |
|--------|---|
| TRIMs | Trade-Related Investment Measures [Agreement] |
| UDHR | Universal Declaration of Human Rights |
| UN | United Nations |
| UNCTAD | UN Conference on Trade and Development |
| UNDP | United Nations Development Programme |
| UNEP | United Nations Environment Programme |
| VCLT | Vienna Convention on the Law of Treaties |
| WB | World Bank |
| WTO | World Trade Organization |