[Business & Human Rights | A step towards addressing reprisals in development projects: the MICI reprisals toolkit](#)

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In 2019, the Independent Consultation and Investigation Mechanism (MICI), the independent accountability mechanism of the Inter-American Development Bank, released a new "reprisals toolkit" with hands-on, practical guidance on how to systematically assess and address risks of reprisals.

By Tove Holmström, the author of the MICI "reprisals toolkit"

This article is published ahead of an event organised by ISHR and others at the UN Forum on business and human rights entitled "Prevention is better than cure: exploring best strategies by States to prevent attacks on human rights defenders", which will take place on 26 November 2019 from 15:00-18:00 at the UN Forum in Geneva. Click here for more information and to register.

In 2012, the independent accountability mechanism of the World Bank – the Inspection Panel – was requested to undertake an investigation into a World Bank-funded project in Ethiopia. In a country context characterised by limited opportunity for political dissent, the Panel was tasked with assessing whether its parent institution had provided funding for and overseen the implementation of a project in line with its own social and environmental safeguards: standards adopted by the Bank itself to ensure that projects it supports do not cause harm to people or the environment. The Panel's intervention had unforeseen consequences. Following its visit to the country and the public release of its findings, the interpreter it had relied on during the mission was detained, without charge, by Ethiopian authorities.

As an initial step in the direction of addressing such risks, this year the Independent Consultation and Investigation Mechanism (MICI) released a new "reprisals toolkit" with hands-on, practical guidance on how to systematically assess and address risks of reprisals.

Starting with the establishment of the World Bank's Inspection Panel in 1993, multi-lateral and national development lending institutions have established their own internal oversight mechanisms. These mechanisms – often referred to as independent accountability mechanisms – provide a means for individuals and communities that have been, or believe that they will be, negatively impacted by a project funded by the mechanisms' parent institutions. They can be engaged to mediate a conflict between the project implementing agency and the impacted community in an effort to find a mutually acceptable solution or to investigate whether the banks have followed their own internal rules – safeguard standards – in financing the project.

The Inspection Panel's experience in Ethiopia is not an isolated event. It responds to a bigger picture of increased reprisals against individuals and groups that, to call attention to their human rights situation, have sought to involve external actors, including non-governmental organisations (NGOs) in the global North, human rights mechanisms such as UN Special Rapporteurs, or independent accountability mechanisms established by development lending institutions such as the World Bank's Inspection Panel. By way of illustration, in 2009, two Kenyan rights activists were found assassinated shortly after having met with the UN Special Rapporteur on extrajudicial, summary or arbitrary executions during his mission to the country. In 2016, a national staff member of the UN Human Rights Office in Cambodia found himself subject to politically motivated charges for his work. International human rights NGOs also continue to report that their engagement with grassroots organisations or individual activists can expose the latter to targeted repression and harassment. All in all, over the last few years, the reported number of reprisals have increased, as have their severity. Reprisals – including

threats and judicial harassment, travel bans, smear campaigns, torture and ill-treatment and, at times, assassinations – have affected not only those that directly engage with independent actors, but also their family members and anyone working to support them (including trade unionists, lawyers or local NGO staff) or that facilitate the work of the independent actors, such as drivers or interpreters. In short, against a global backdrop of shrinking civic space, raising your plight with external parties or even working to support independent actors in their attempts to resolve conflicts has become dangerous business.

The good news is that there is increased recognition of these risks, not only on the part of those that may be most affected by reprisals but also among those with whom they interact: human rights mechanisms, NGOs as well as development lending institutions and their independent oversight mechanisms. In 2016, the UN Secretary General designated a senior official to lead system-wide efforts to put an end to reprisals against those cooperating with the UN. Development lending institutions are adopting public-facing policies on reprisals, developing internal staff guidance on how to assess and address these risks, or beefing up their digital security to ensure that project-affected communities have safe access to voice their concerns. And within the global NGO community, organisations that support local communities to bring complaints to human rights mechanisms or independent accountability mechanisms – such as the World Bank's Inspection Panel – are increasingly collaborating with organisations that are specialised in the security of human rights defenders. An important contribution to the ongoing debate about reprisals and how to best address these has also been made by the Independent Consultation and Investigation Mechanism (MICI), the independent accountability mechanism of the Inter-American Development Bank, which, in 2017, commissioned guidance on how it and other similar mechanisms could better tackle risks of reprisals with complainants and other cooperating persons.

Released in January 2019, MICI's "reprisals toolkit" provides hands-on, practical guidance on how to systematically assess and address risks of reprisals. While it principally seeks to support independent complaints mechanisms of development lending institutions, it is also a useful tool for any and all actors that work with individuals or groups that may be at risk of reprisals, including international human rights mechanisms, NGOs and development banks that are investing in high-risk contexts.

In any given case of reprisals, a multitude of actors will be involved, and their actions will – knowingly or unknowingly – have contributed to the reprisals materialising. A typical case for an independent accountability mechanism, for example, often involves not only the project-affected community, but also NGOs facilitating the complaint to the mechanism, one or several development lending institutions, the project's implementing agency (a local government, for example, or a private sector client building a highway that is partly or fully funded by the development lending institution) and others associated with it (such as local security forces hired to protect the project area from external interference), national or local media, and other community members that may not wish for the complaint to be heard by the independent accountability mechanism. In this typical case, several actions may have resulted in risks of reprisals. The NGO facilitating the complaint, for example, may have posted public photos and articles of the community as part of the process to bring the complaint to the mechanism, thereby adding to risks of reprisals by rendering it impossible to protect the anonymity of the complainants. The accountability mechanism's parent institution, providing funding for the project at hand, may also have unveiled the identity of the possible complainants to the project implementing agency or others associated, often in a well-intended effort to have the matter dealt with quickly. The independent accountability mechanism itself may also jeopardise the security of complainants by communicating with them without considering risks of digital surveillance, or by the simple fact of discussing the case with colleagues during a taxi-ride, while undertaking missions to the field. Where reprisals take place, they tend to be the result of a combination of such actions. Addressing risks of reprisals is therefore a shared responsibility and not just the responsibility of the independent complaints mechanism that is typically brought in as a last resort.

The starting point for the toolkit and its practical advice is that there is no such thing as a zero-reprisal risk scenario. In short, any engagement is likely to come with risks. The toolkit also presumes that risks of reprisals can never be fully eliminated. There are, however, several baseline measures that can be taken to significantly reduce risks of reprisals and to address reprisals that have materialised. Broadly speaking, the toolkit provides for options that can be taken on a case-by-case basis, including risks assessments and strategies to respond to identified risks, and options that can help strengthen the institutional capacity to assess and address risks, such as digital security audits and encrypted communication forms, public reprisals policies and staff training, and establishing collaborative and long-term relationships with specialised organisations. Focusing on preventative measures as the most appropriate means to counter risks, the toolkit outlines 25 options, each accompanied by practical support for how the suggested option can be pursued (the "tool" part of the document). This practical guidance includes, among other, descriptions of how an option has been pursued by other independent accountability mechanisms or in other contexts, templates, sets of questions and relevant resources that might be useful to consider, and external organisations that can be approached for support.

Ensuring a more systematic response to risks of reprisals will be a time-consuming endeavour for any actor that engages with local activists and actors and, because, of that engagement, can put them at risk of reprisal. For some, it may require changes to their mandates, current standard operating procedures and communication technologies. More than anything, however, it will require a change to the way their staff think about and act to ensure the safety of those with whom they interact: after all, the best protection that mechanisms can provide is, being aware of the potential risks of harm and to exercise good judgement, caution and sensitivity of these risks in all their interactions. The toolkit is a first step in that direction.

Tove Holmström is the author of MICI's guide on measures to address the risk of reprisals in complaint management. Currently an independent human rights consultant based in Paris, France, she is a former staff member of the Office of the UN High Commissioner for Human Rights. Her work addresses business and human rights, with a particular focus on non-judicial grievance mechanisms. In this field she has, amongst other, worked with the UN Special Rapporteur on the situation of human rights defenders and the Organization for Economic Co-Operation and Development, before being commissioned to produce the reprisals toolkit. She is regularly consulted by development lending institutions and independent accountability mechanisms that are seeking to develop measures to better assess and address risks of reprisals against project stakeholders, complainants and other cooperating persons. Since December 2017, Holmström is an independent expert member of the independent accountability mechanism of the French Development Agency (Agence Française de Développement).

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