Development Projects as Delivery Vehicles for Realizing the Sustainable Development Goals: A Need for Developing Deeper Insights

By:

Andria A Naudé - Fourie

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This contribution starts with two observations, both reflecting mainstream approaches to international economic law, international institutional law and public international law more generally. First, international development law, defined as a branch of International Economic Law (IEL) that sets out "the rights and duties of states and other actors in the development process" (Bradlow 2005) seldom receives the same degree of research and teaching focus typically dedicated to branches such as international trade, investment and monetary regulation – as a cursory review of the tables of contents of prominent IEL textbooks and research handbooks illustrates. Second, the same can be said about multilateral development banks (MDBs) and their development-finance operations (Bradlow & Hunter 2010).

Yet, the importance of an intensified focus on both international development law and the development-finance operations of MDBs should be evident, given the global prioritization of the Sustainable Development Goals (SDGs). One of the most important delivery vehicles for the realization of the SDGs remains ‘development projects’ (or, as they are more likely to be called in the private sector, ‘capital investment projects’). Many of these projects are situated in developing economies and (co-)financed by MDBs – which means that, while they are designed and implemented at the local level by public sector and/or private sector actors (‘project sponsors’), MDBs participate in the realization of these projects in various capacities throughout the development project-cycle, thus in addition to providing project finance.

Despite their prominence, however, many aspects of MDB-financed development projects remain problematic. To start with, there remains considerable disagreement on what projects should be financed and how to prioritize development objectives in light of competing interests, as illustrated, for example, by debates about MDBs continuing to finance coal-fired electricity plants. Moreover, MDBs and project sponsors are still grappling with the many challenges involved in designing and – especially – in implementing these projects so that they realize their development objectives (expressed as concerns about ‘development performance’ or ‘development effectiveness’), while also managing their environmental and social risks (expressed as concerns about ‘harm’ or ‘adverse effects’).

At the same time, the development process has become increasingly more complex. For example, recognizing the need for a ‘global partnership for development’ resulted in a rise in public-private-partnerships and an increased emphasis on private sector lending. This, in turn, required MDBs such as the International Finance Corporation (IFC) to adopt operational policies suitable to private sector clients, develop new financing arrangements such as loan syndication, equity investments and trade-financing, and extend these offers to new client segments such as financial intermediaries. These developments have brought new challenges concerning, for instance, (sub-)project information disclosure and environmental and social risk categorizations of projects. MDBs have also intensified their efforts to coordinate and cooperate in various configurations – ranging from trust funds to co-financing – with existing MDB-partners and recently established MBDs, as well as other public and private sector financiers (Angelini 2016; Stumpf 2016). Many aspects of these complex configurations have raised new concerns, such as the transparency surrounding them and the intricacies involved in supervising the implementation of co-financed projects.

In other words, there is a need to develop yet deeper insights into the *development* process, particularly, how to overcome the challenges involved in designing and implementing projects that realize their development objectives as well as manage their environmental and social risks; and to expound the *rights and obligations* of all actors involved in this process, in various capacities and configurations of cooperation.

The growing body of practice generated by independent accountability mechanisms (IAMs) institutionally affiliated with MDBs – and, increasingly, also with other development finance institutions (DFIs) – provides valuable opportunities for developing such insights.

Established to provide avenues for recourse and potential redress to project-affected people facing actual and potential harm, IAM procedures are mostly triggered from outside MDBs, by project-affected people and/or their authorized representatives (typically civil society actors) – which is why IAMs are often described as ‘citizen-driven’ or ‘bottom-up’ accountability mechanisms. However, it is important to note that IAMs are typically also mandated to strengthen institutional accountability and development effectiveness. In other words, they have ‘dual accountability mandates’ that encompass concerns about development effectiveness *and* harm. IAMs exercise their mandates through different functions, including problem-solving or ‘collaborative mediation’, fact-finding, compliance review, monitoring of corrective action plans and institutional advice – which makes for a particularly rich and varied body of practice that is in the public domain.

While there are valid criticisms about their effectiveness and valuable, continuing advocacy-efforts to strengthen and expand their mandates, functions and procedures, I AM practice provides a unique window onto MDB-financed development projects – and to the transnational development process more generally – that should not be ignored. Initiatives such as Accountability Counsel's recently-launched public database of 'community complaints' filed at IAMs make IAM practice even more accessible for students, academics and practitioners.

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