

**Business and Human Rights Clinic:
Final Report**

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School of International and Public Affairs
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Section I: About the Clinic

1 – Introduction

The Business and Human Rights Clinic is a full-year clinic offered at Columbia University. Jointly sponsored by School of International and Public Affairs (SIPA) and the Institute for the Study of Human Rights (ISHR), the Clinic draws together graduate students of SIPA, the Human Rights Studies Masters Program, and Columbia Law School. It is an interdisciplinary space for testing innovative models of business and human rights work, carried out in partnership with NGOs and other business and human rights practitioners.

The Clinic is supervised by Joanne Bauer, Adjunct Professor of International Affairs, SIPA. The Clinic members for the inaugural year, 2015-2016, are:

Michael Adams	Satbir Singh
Max Anderson	Allison Walker
Sethaly Beyer	Chatrini Weeratunge
Xin Yi Cheow	Samantha Weinberg
Anatole Douaud	Ginger Whitesell
Haoran Luan	Andrew Wilcock
Ishita Petkar	

This year the Clinic partnered with Inclusive Development International (IDI), an international NGO based in the United States that specializes in land and natural resource rights. IDI supports and builds the capacity of local organizations and affected communities to defend their land and human rights in the face of harmful investment, trade and development. For more information on IDI, see: <http://www.inclusivedevelopment.net/>

In 2015 IDI developed a strategy that relies on financial databases and open access online sources to map investment chains and place critical information in the hands of communities affected by forced eviction and related harms. From October 2015 - May 2016, the Clinic helped to pioneer the methodology by test-driving it across fifteen cases, spanning a range of projects (mining, real estate, energy, agriculture) and continents (Southeast Asia, Africa, and Latin America). The Clinic experimented with different databases and research strategies, and sought to recommend ways to improve efficiency and effectiveness, in mapping, analyzing pressure points, and creating advocacy strategies. In this way, the Clinic helped to support communities and NGOs in the Global

South to hold development finance institutions and other investors accountable for the human rights impacts of their investment and procurement decisions.

2 - What is Investment Chain Mapping?

Investment Chain Mapping (ICM) is a method for identifying the upstream, midstream, and downstream investors linked to an investment project that has allegedly violated or threatened human rights.¹ The process of mapping investors of a harmful project reveals potential “pressure points” that can be identified and “targeted in advocacy to influence the design, outcomes and impacts of a project, or to obtain remedies for harms.”² An advantage of ICM is that it can be carried out at an early stage of a potentially harmful project, and thereby enable early intervention to prevent harm.

Following the Money (FtM): An Advocate’s Guide to Securing Accountability in Agricultural Investments, published in September 2015 by the International Institute for Environment and Development (IIED) and Inclusive Development International (IDI) sets out the basic ICM method. In the fall of 2015, the Clinic began road-testing the *Guide* by experimenting with different financial databases on cases identified by IDI or based on requests to IDI from affected communities or their NGO advocates.

International financial institutions (IFIs), including multilateral development banks (MDBs), national development agencies and export credit agencies (ECAs), are among the strongest pressure points. MDBs and most ECAs have instituted social and environmental performance standards and international accountability mechanisms (IAMs) that not only serve as a check on institutional compliance with those standards, but also can provide redress for communities that are harmed when those standards are breached. In recent years, MDBs have directed a significant percentage of their development financing to financial intermediaries, which in turn fund projects in developing countries.³ Because the MDBs have not had in place a strong means to track these funds and ensure that sub-clients comply with their performance standards, this

¹ International Institute for Environment and Development (UK) and Inclusive Development International, *Following the Money: An Advocate’s Guide to Securing Accountability in Agricultural Investments* (2015). (*Following the Money*), 1.

² *Following the Money*, 42.

³ IFC, working with financial intermediaries, April 2015,

http://www.ifc.org/wps/wcm/connect/1c3013804a260251bf70bfe54d141794/IFC_FI_FactSheet_April2015.pdf?MOD=AJPERES

practice has been identified by both civil society⁴ as well as some IAMs⁵ as posing significant human rights risks to communities as well as risks to the credibility of the IFIs themselves.

This trend of IFI financing of financial intermediaries is an impetus for the development of ICM: the methodology can be used to make the links between the human rights harm and the IFI, which can then become the basis of a complaint to the IFI's IAM. Even where there is no IFI link, however, an ICM can also reveal pressure points that can become the basis of an effective multi-pronged advocacy strategy - one that does not rely upon a single means of redress. Other actors such as large multinational, international banks, and even individuals can prove to be useful pressure points in order to offer redress and remedy.

In addition to *Following the Money*, a key reference for the Clinic's work is the 2014 report, *IFC [International Finance Corporation] Financial Intermediary Investments Research: Connecting the Dots Between the IFC and Land Grabs Phase 1*, where Dustin Roasa, then a consultant to IDI and Oxfam Australia, describes the findings of his pioneering ICM research using Thomson One.⁶ In its own work, the Clinic has made use of its access to Thomson One as well as other financial databases available to them through the Columbia library system, including Bloomberg Professional (Bloomberg), Capital IQ and OSIRIS/Orbis. In addition, the Clinic used several non-financial databases including Factiva, Pegasus and Columbia University Libraries/Information Services (CLIO) to cross-check the information's accuracy.

3 - Pressure Point Identification for the Development of Multi-Pronged Advocacy

Following the Money contains a set of "key questions" that community advocates can use to determine whether an upstream or downstream actor will be an effective pressure point. For example, the authors observe that a company might be more responsive to pressure if it is publicly traded (and thus sensitive to shareholder interests - both financial and non-financial)⁷ or state-owned, as states have more clearly defined human rights

⁴ Kate Geary, "The Suffering of Others: The human cost of the International Finance Corporation's lending through financial intermediaries," Oxfam Issue Briefing, April 2015.

⁵ Office of the Compliance Advisor Ombudsman (CAO), "CAO Audit of a Sample of IFC Investments," Oct 10, 2012.

⁶ Dustin Roasa, *IFC Financial Intermediary Investments Research: Connecting the Dots Between the IFC and Land Grabs Phase 1*, Final Report, 18 October 2014, 2.

⁷ *Following the Money*, 43.

obligations than companies.⁸ In addition, a consumer-facing company will face more pressure from the general public, which increasingly demonstrates concern for human rights through its purchasing practices or public protests.⁹

ICM mappers who are newcomers to the business and human rights field and therefore unfamiliar with the potential of various institutions as pressure points face a particular challenge - investment chains are often vast, and a solid awareness of pressure points is essential to knowing when the mapper has found what they need. While there are often many actors in an investment chain, only a few prove to be effective pressure points.

FtM research identifies links to pressure points in order to build an advocacy strategy for redressing existing harms and preventing further harms. When researching using financial and other databases, much of the information that turns up can seem disparate or irrelevant at first glance; as more about the investors becomes known, a picture of the investment dynamics emerges. Non-MDB pressure points often require more thinking around how they might fit into a holistic strategy or campaign.

What constitutes a good pressure point and how a pressure point can be used differently for different purposes is often not self-evident. In general, the most viable pressure points are those that have already been tested. Yet, it is by testing pressure points that pressure points can be created, as it is by pressuring actors that those actors are forced to respond. And it is this process that can eventually lead to institutional change.

The Clinic took a number of steps to improve its understanding of what makes a good pressure point. Some members brought an understanding of and experience with particular mechanisms to the Clinic. During its regular sessions, the Clinic would learn about particular pressure points. The Clinic also dedicated several sessions to peer learning, with members studying a particular mechanism and then teaching it to the class.

As the Clinic was building familiarity with various pressure points, it decided to take a “maximalist” approach to pressure point identification and analysis in the memos produced for IDI. In other words, the teams erred on the side of inclusion when they encountered information that indicated an actor could possibly be a pressure point. Beyond an acknowledgment of its own learning curve, the Clinic considers the maximalist approach to be significant: as circumstances change, both on the ground and institutionally, formerly ineffective pressure points may become effective.

⁸ *Following the Money*, 44.

⁹ *Following the Money*, 126.

4 - Theory of Change

ICM methodology can reduce the asymmetrical access to information between project-affected communities and project backers. In identifying upstream and downstream actors that have the power to influence the project company to stop and remedy harms, the methodology reveals advocacy options that can empower communities to challenge the status quo.

As more communities choose to pursue advocacy strategies based on ICM, the accountability gaps in finance can become more apparent. Forcing transparency in this way reveals the hidden investment risks and in the long term, can instigate a change in culture among investors where human rights due diligence is the new norm.

In this way, the process of identifying pressure points can eventually lead to institutional change. Yet, to change business conduct, an understanding of the motivations that businesses have for investment decisions and how human rights (or environmental and social issues) enter into the financial calculus of investors is also required. By understanding the business perspective and approach to human rights, the Clinic can more effectively suggest methods to encourage businesses to better respect human rights.

In considering its theory of change, the Clinic recognized an ethical issue related to the tension between the need for confidentiality because of the high risk of advocacy to the affected communities, and the need for corporate transparency. By keeping the information the Clinic uncovered confidential – including information that could help other communities to prevent harm and seek justice -- the Clinic work was rendered part of the “access to information” wall.

Section 2: Research Insights

1- Clinic Caseload

The industry sector breakdown of the Clinic's caseload this year was as follows, with total number of cases indicated:

ENERGY (7)	AGRICULTURE (4)	MINING (2)	REAL ESTATE (2)
Coal Power Plants (3)	Sugar (1)	Gold (1)	Special Economic Zone (1)
Hydropower Dams (4)	Rubber Plants (1)	Coal (1)	District Development Plan (1)
	Palm Oil (2)		

The regional breakdown for these cases, was as follows:

MEKONG REGION (11)	OTHER REGIONS (3)
Cambodia (7)	Colombia (1)
Myanmar (3)	Kenya (1)
Vietnam (1)	Liberia (1)
Laos (1)	

2 - Sector Insights

When approaching a new project, researchers need to consider the dynamics of a particular industry or region. Companies within a given sector typically share similar timelines for implementation, types of investors, and stakeholders along the supply chain. Developing an expertise in a particular industry is beneficial for ICM, as it becomes easier to recognize patterns in the research and understand what may be missing.

Below are summaries of sector insights which Clinic members brought to the Clinic or learned during the research process.

2.1 - Coal

Coal power plants are commonly sectioned out by the project company into separate projects with multiple units. These projects can have individual timelines that span up to ten years, and each may be financed by multiple investors and contractors. Financing for these projects may be directed towards discrete parts of the project, for example, specific equipment, or it could be general financing of the entire project.

When a coal operation is not subject to effective regulation, it is likely to produce significant human rights impacts. In particular, river diversions, dams, mountain top removal, and port installations can have a significant environmental impact. Today the coal industry faces many challenges, as large banks, which are influenced by clients' aversion to this industry's harmful effects, are committing to divesting from coal plants to make way for cleaner energy. These commitments, which are not retroactive, are not yet strong enough to be used as pressure points alone, although they could be coupled with public campaigns to encourage banks to provide redress to harms on the ground while the project is being carried out. It is unlikely that these projects can be halted altogether, as they are seen as crucial parts of infrastructure development.

2.2 - Mining and Metals

The metals industries are all divided into two functions: prospecting and mining. Prospecting involves the identification of deposits and the assessment of their commercial viability. Once a viable deposit has been identified, mining may begin. The two functions require two different types of permission: an exploration license allows a company to search for deposits while a mining license allows for the extraction and sale of the resource. The due diligence required for the latter is significantly more demanding as the social and environmental impact of mining is greater than that of prospecting.

Larger mining companies may incorporate both prospecting and mining functions, but smaller deposits will be explored by smaller companies which may specialize in one of the two functions. The prospecting model is as follows:

1. Obtain exploration license for new land concession
 - a. Applying for a new license
 - b. Monitoring the expiration of other companies' existing licenses, or

- c. Acquiring companies with existing licenses
2. Prospect under exploration license and review suitable joint-venture partners
3. Enter into a joint venture agreement through the sale of mining rights, or sell the exploration license to a third party.

2.3 - Electricity

The electricity generation projects mapped by the Clinic all had national governments as a primary midstream and downstream actor. Government ownership has implications for the ICM research: when projects in an authoritarian regime are government-owned or controlled, media reports on the negative impacts of its projects are very rare, leading the Clinic to rely on NGO reporting instead.

2.4 - Dams

Hydropower generation projects are capital intensive and are mostly financed through difficult-to-track loans received by the national electricity company (in developing countries where electricity markets are not fully liberalized). Hydropower projects are likely to impact not only communities in the areas immediately surrounding them, but also communities located along the water source on which the dam is located. Therefore, research needs to examine environmental and social impacts along the water source to fully account for the communities and areas that will see changes in the local ecosystem as a result. Displacement is often a key issue as well as loss of livelihood. Fish stocks may also see significant depletion. It is possible that a river may cross through several regions or countries, inviting dialogue and engagement with impacted groups under different sets of laws that are not benefitting from the development. Further, this investigation will ensure that the tens of thousands of impacted people are accounted for, and not just those in the immediate area of the dam.

Like coal power plants, hydropower dam owners are unlikely to halt construction, as they are key elements of a country's electricity development and take at least five to six years to complete. More likely, redress will have to come in the form of monetary compensation, as opposed to the return of lands.

3 – Two Cases

Over the course of the year, the Clinic produced 15 memos that mapped the investment chains for specific projects or companies, spanning forestry, mining, energy, real estate, and large-scale agriculture sectors. Additionally, the Clinic produced memos for two country-specific projects: the palm oil industry within a country; a mapping of the troubling investments made by the International Finance Corporation (IFC), as a result of financing financial intermediaries within a specific country.

In this section we present the detailed research methods of two cases to demonstrate how it conducts ICM: 1) a prospecting company; and 2) a hydroelectric dam project. Although both cases represent an opportunity to prevent harm, the prospecting company's business relationships and harms were relatively few at the time of the research, while the dam project's impact is more widespread involving a greater range of institutions, including multilateral development banks. The two cases illustrate the differences in conducting research on a company versus a project.

Both of these cases are active and therefore anonymized for the protection of the affected communities.

3.1 - A Prospecting Company

The Clinic was asked to map the investment chain of a prospecting company based in the Global North facing allegations of violating free, prior, and informed consent (FPIC) by local indigenous communities in the host country.

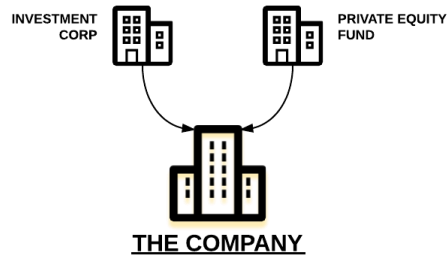
The written request IDI sent to the Clinic contained fragments of information, detailing various actors known by the communities and NGOs working on the ground. As this was a small company with a limited number of projects, the Clinic team decided to first gain a thorough understanding of the history of The Company, its major shareholders, and its joint-venture partners. As such, the investigation started from the ground up, beginning with The Company itself:



Information obtained through simple Google searches proved to be both revealing and potentially powerful. First, knowing that The Company is domiciled in an OECD country

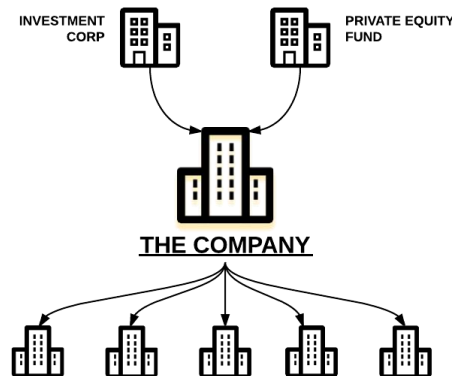
immediately pointed the Clinic team to the potential availability of redress via that country's OECD National Contact Point. Second, discovering that The Company is publicly listed in an OECD country alerted the Clinic team to the possibility of appeal to the relevant stock exchange's safeguards and procedures.

Next, the Clinic team sought to identify shareholders. Bloomberg revealed two Hong Kong-based investment vehicles with significant holdings of equity in The Company:



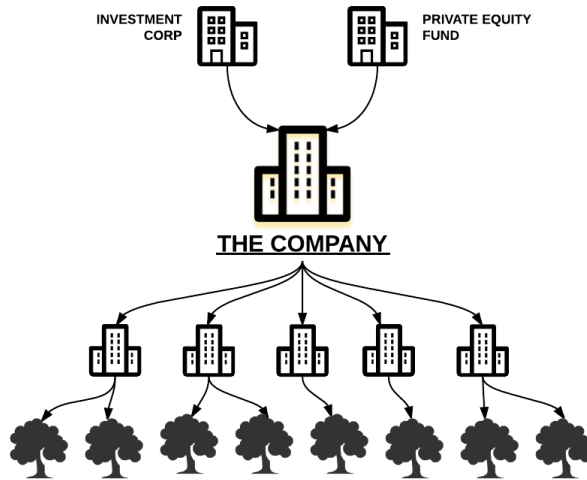
The Team established through web searches that the two funds are both based in the same large emerging market, and that the clientele and equity structure of both includes a number of public sector organizations linked to the mining industry.

The Company's website revealed The Company, despite its small size, owned a large percentage of the host country's land concessions. Following this lead, the Clinic team used a combination of Thomson One, Factiva, and Google to investigate The Company's subsidiary structure, and found that over the years, The Company had acquired a series of smaller mining interests:

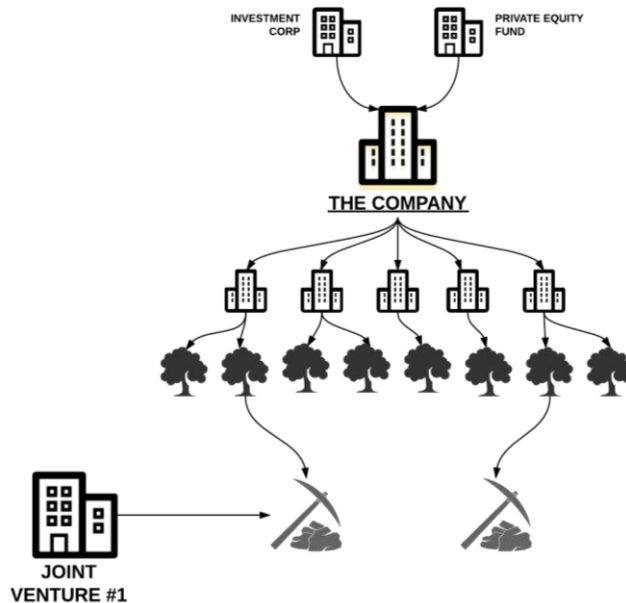


Looking at sale agreement documents and company annual reports, the Clinic team was able to trace each of The Company's land concessions to its subsidiary acquisitions. At the time of research, The Company held either majority or whole ownership of these subsidiaries, and as a result, had obtained control of these land concessions. This

information proved particularly useful to affected communities, some of which had prior knowledge of these smaller companies, but were unaware of the link with The Company.

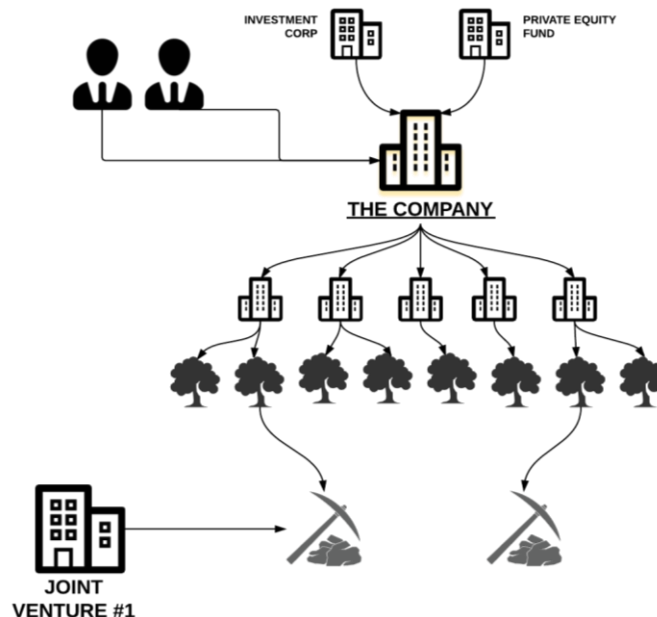


Having established information on the major shareholders and history of The Company itself, the Clinic team then considered how The Company's joint-venture partners exploring the active sites fit into the business model. Learning that the prospecting business model is composed of three stages --1) procuring the concession; 2) exploring; and 2) identifying potential partners; realizing the asset -- the team determined that current and future FPIC violations were likely to occur at the second stage of establishing joint-venture relationships.

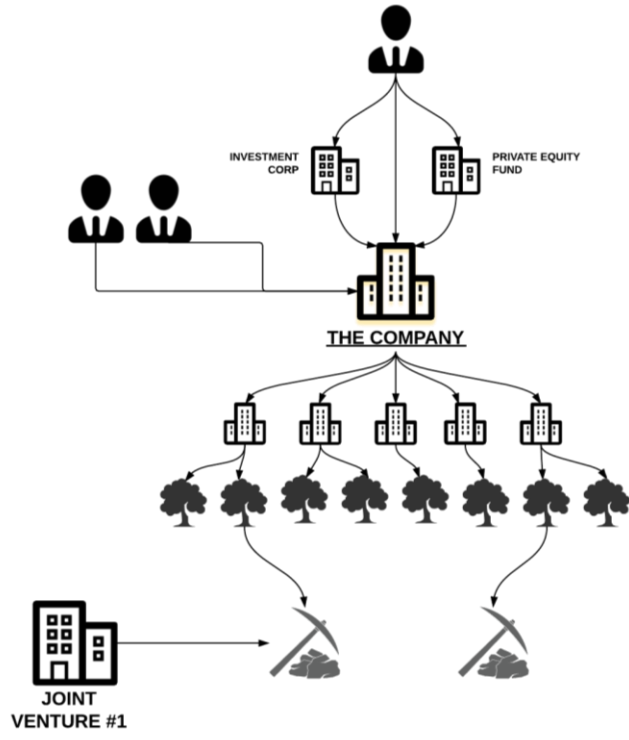


Based on this assumption, the Clinic team researched The Company's major joint-venture partner, and found that although it was this company's first time operating in the host country, it had a history of FPIC violation, corruption and illegal mining in its home country. This was a point of concern that the Clinic team kept on their radar for the rest of the research process.

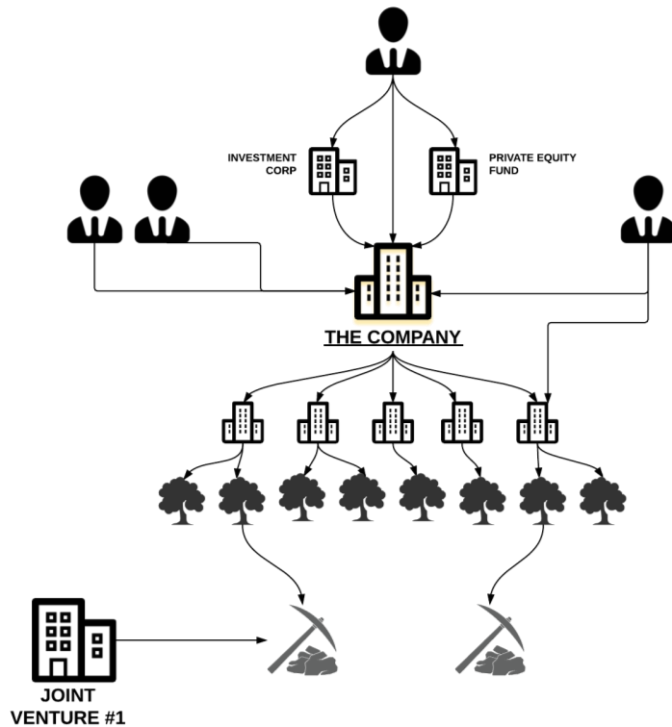
The final steps taken by the Clinic team involved understanding the network of relationships of the individuals within the company. Using Facebook, the team identified the two people running the company, and after studying the company's literature and social media presence, it became apparent that The Company had made corporate social responsibility (CSR) integral to The Company's image.



Throughout this research process, the Clinic team noted the repeated appearance of another individual linked to The Company's shareholding. Further research revealed that this person is the largest shareholder and chairman of both funds invested in The Company, and directly owns a stake in The Company itself. In total, this individual controls over 50 percent of the company through his varied shareholdings.



The team identified a final player with a stake in The Company and a place on its board, who once owned several of the subsidiaries with the original land concessions. LinkedIn, revealed that he was a consultant to the host country's government, friends with the Minister of Mines, and had helped write the country's mining regulations.



At this stage, the Clinic team was able to confidently pinpoint three pressure points: the OECD National Contact Point, the stock exchange The Company is publicly listed on, and The Company's own socially responsible image.

However, it was only after receiving an update from The Company itself that the team could suggest an advocacy strategy that took into account a fuller range of external factors. The update revealed that The Company had entered into a second agreement with the first joint-venture company, with no sign of FPIC from affected communities. Furthermore, the terms of the deal were highly disadvantageous to The Company, with the original agreement renegotiated to ensure less profit for The Company. Intrigued by why The Company would willingly diminish its own returns, the team realized that The Company's sensitive position was due to a significant drop in commodity price. This created a fourth viable pressure point for communities to target: new joint-venture partners The Company is courting who can leverage The Company's financial vulnerable state to ensure responsible behavior.

The Company's major agreements include the sale of one of its exploration licenses to an emerging market mining company, a company it no longer retains a stake in, and the sale of mining rights to another emerging market company, where it retains a net smelter royalty from the mine's eventual revenue. A subsequent deal with that same company broke the exploration - mining distinction, with the sale to the second emerging market company of both exploration and mining rights.

This prospecting business model merits attention, as prior to its agreement with the second company, The Company had established relationships and made promises to indigenous landowners that were not conveyed in the agreement. In such a situation, both the promisor and the operator should be held accountable for remedying human rights violations. In violation of the internationally recognized principle of FPIC, The Company did not inform the communities about the discovery of gold or the sale of mining rights. Communities were unaware that the purchasing company had conducted and submitted an Environmental Impact Assessment of their proposed mining project until the Clinic Team presented its findings to them.

The Clinic's recommendations thus included the need for communities to be aware that they should stay alert to the granting of an exploration license in order to ensure its voices are heard before the operationalization or sale of a site. Moreover, the buyer has a record of human rights abuses in its country, raising questions about The Company's responsibility to conduct human rights due diligence before turning the concession over.

That new information came in during the course of the research that changed how the Clinic team understood the case underscores the fact that the Clinic is working with living cases that need to be constantly monitored for changes.

The team also identified some cautionary signs for the affected communities. As is evident from the network of individuals, The Company is deeply involved with the host country's government, signifying that any advocacy directed against The Company will also indirectly be against the government. Additionally, given the current drop in The Company's commodity price, there is a small window of opportunity for advocacy to target The Company's vulnerable position.

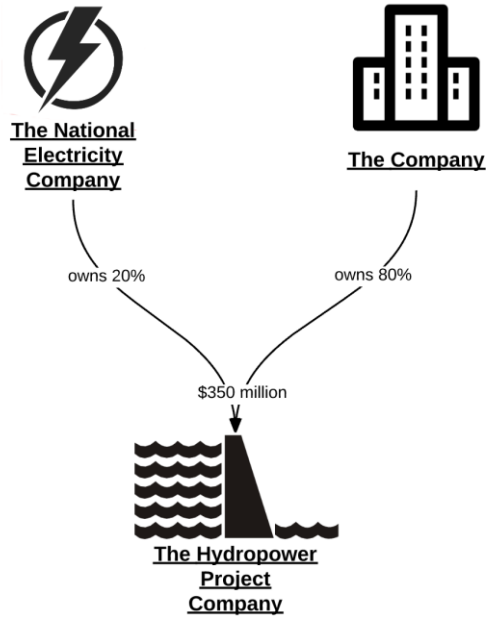
Upon presenting the research to the affected communities, the team came to see that one of the most compelling results of the ICM process was piecing together a full picture that completed the communities' understanding of The Company, its history, and its current actions. While it is the pressure points that are sought in order to develop advocacy strategies, the in-depth research process ensured that the Clinic team understood The Company and its strategies well enough to identify its key vulnerabilities.

3.2 - A Hydropower (Dam) Project

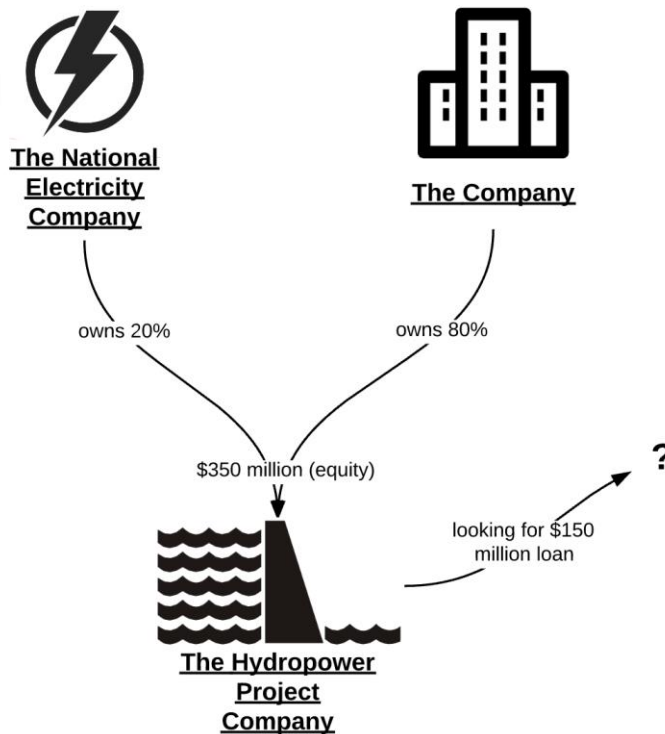
The Clinic was asked to map the investment chain of a dam project located on a national border, which allegedly violated FPIC and failed to conduct impact assessments in the neighboring country, despite potentially causing significant damage to the local environment.

The written request provided to the Clinic identified a Company in a third country in charge of the project. This was a large, diversified company, publically traded, and with a wide range of shareholders. As the project has been previously subject to extensive NGO criticism and there was substantial evidence of a lack of FPIC and the project's potential harms, the Clinic first sought to clarify exactly how the Company was involved in the dam. This was done by creating a detailed timeline of the project drawn from publically available documents.

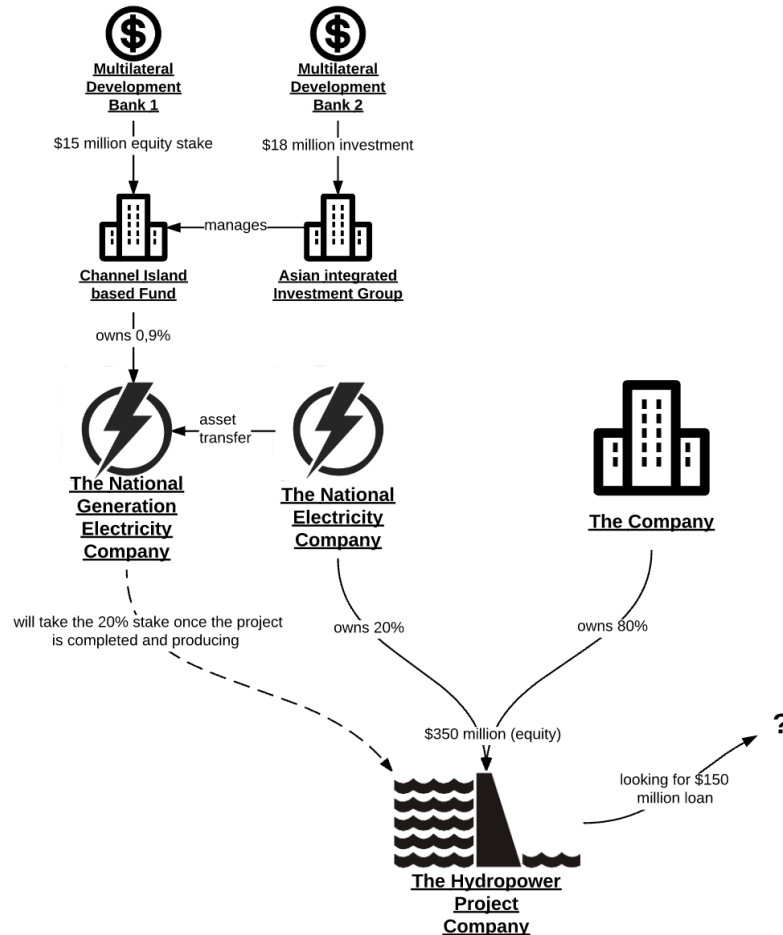
The most important of these documents is arguably the Memorandum of Understanding (MOU) between the company and the National Electricity Company of the host country, which set up the terms of the Hydropower Project Company as a joint-venture between the two.



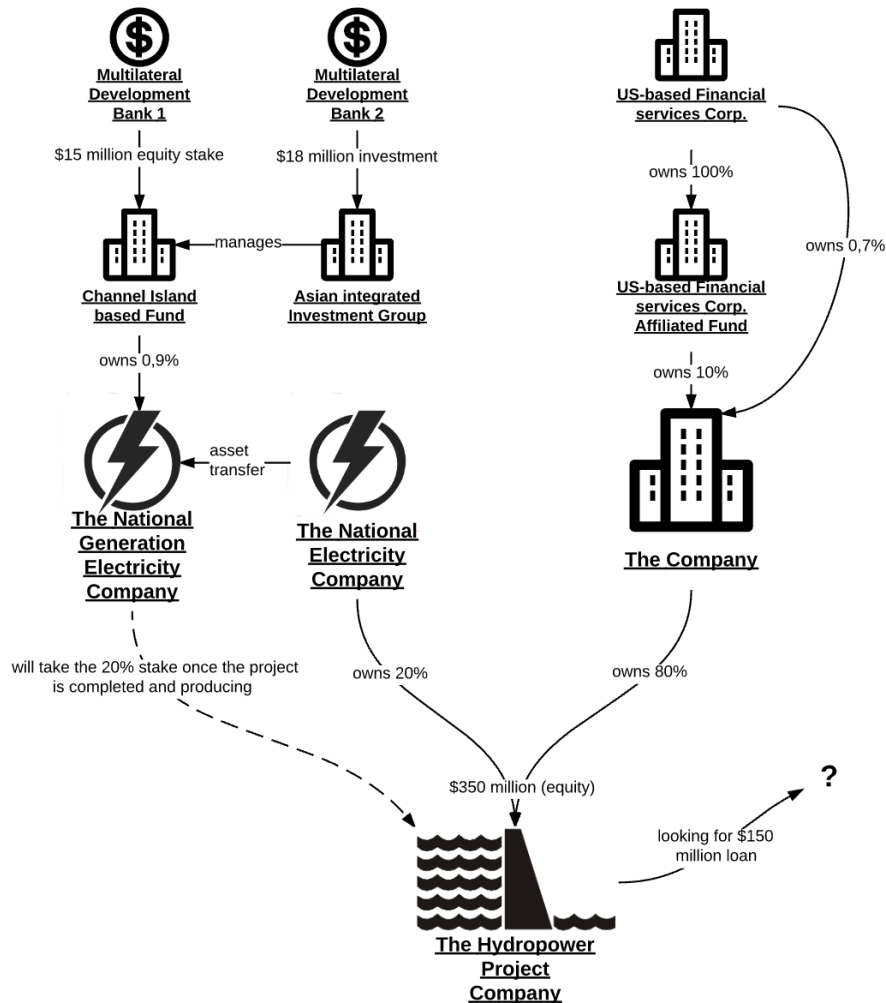
The financial databases were not as helpful as the stock exchange where The Company is listed, which is also the country in which it is domiciled. Through the Company's regular updates on the exchange's announcement system, the Clinic discovered that the company was seeking to fund the construction of the project through external debt.



The Clinic had previously researched the National Electricity Company for another project. The National Electricity Company passes on ownership of its hydropower projects to a publicly listed National Electricity Generation Company once they begin to operate commercially. The Clinic knew that among the shareholders of the National Electricity Generation Company are several multilateral development banks. Further, the Clinic discovered that in the National Electricity Generation Company's initial public offering (IPO), the Hydropower Project Company was mentioned several times. This led the Clinic to identify these multilateral development banks as potential pressure points.



In addition to establishing these links to the project, the Clinic used financial databases to examine the shareholders of The Company, which revealed significant holdings by a US-based financial services corporation in The Company. Given US regulatory demands on financial services companies, this was a good pressure point.



4 - Downstream Research

Only one of the projects the Clinic was assigned to research, oil palm plantations in Liberia, had reached the production stage where the product was being sold - and thus this was the only project for which the Clinic experimented with downstream investor (buyer) research.

Extensive searches on Google turned out to be the most effective method for conducting downstream research. Most of the information was found on company websites, advocacy campaign reports, rankings and scorecards, strategic reports, and news articles that are readily available.

Trade databases provide data on exports based on shipping and customs records. For example, Panjiva contains information on companies that source or manufacture commodities worldwide.¹⁰ However, the trade databases do not provide adequate information to establish direct links to buyers. Nonetheless, the databases are useful for understanding how much of product or commodity is exported or imported from one country to another when making a case that large international brands and consumers are likely to be connected to a company in a particular country. The trade databases categorize export and import data using the Harmonized Commodity Description and Coding System, also known as the Harmonized System (HS) of tariff nomenclature, an internationally standardized system of names and numbers to classify traded products.

Research on rankings, scorecards, commitments to CSR and human rights reporting in relation to the consumer-facing brands linked to the commodity or product provide the basis for developing an advocacy strategy targeting these brands. For example, in a palm oil case, while there was no concrete evidence that a particular brand that has a reputation for being responsible, was buying palm oil produced in that country, the company was linked to a conglomerate domiciled in an emerging market that owns a significant stake in another palm oil company, which has a palm plantation in the country in question. Therefore, given the brand's commitment to stakeholder engagement and openness to human rights advocacy, the Clinic deemed it a potentially strong pressure point highlighting the fact that the brand sources from a company known to have ties to plantations in the country where human rights violations are occurring.

An understanding of the structure of the downstream supply chain for the commodity or product is necessary when researching downstream actors including intermediaries, such as traders. For example, in the above case the palm oil sector includes smallholder farmers producing *dura* or *tenara* (other parts of the palm fruit), intermediaries providing support services, and large concessionaires.

5 – Data Sources

Over the course of the year, the Clinic had the opportunity to experiment with different data sources. The Clinic's assessment of the relative usefulness of each of these is below.

¹⁰ Panjiva is a paid service, which is not available through the Columbia University library system and thus the Clinic had no direct experience with it.

5.1 - IFI Directories¹¹

As noted above, IFIs publicly disclose all of their transactions in directories, which they make available on their websites. Some directories are more user-friendly than others, and Clinic members had varying experiences with them. One Clinic member reported that the IFC's directory was straightforward as compared to the German Investment and Development Corporation directory. Several Clinic members reported that the information on some of the IFI directories could be more easily found using Google, while another Clinic member found that it was best to start with the IFI database and use Bloomberg or Orbis data to confirm the finding.

Databases	URL
International Finance Corporation (IFC)	http://ifcextapps.ifc.org/ifcext/spiwebsite1.nsf/\$\$Search?openform
Multilateral Investment Guarantee Agency (MIGA)	https://www.miga.org/Pages/Projects/SearchResults.aspx?hctry=5r&hregioncode=5
World Bank	http://www.worldbank.org/p2e/mcmap/map.html?code=&level=&indicatorcode=0601&title=Global&org=ifc
Asian Development Bank (ADB)	http://www.adb.org/projects
European Bank for Reconstruction and Development (EBRD)	http://www.ebrd.com/home
African Development Bank (AfDB)	http://www.afdb.org/en/projects-and-operations/project-portfolio/
European Investment Bank (EIB) - projects to be financed - projects financed	http://www.eib.org/projects/pipeline/index.htm http://www.eib.org/projects/loans/list/index.htm
Nederlandse Financierings-Maatschappij voor Ontwikkelingslanden N.V (FMO)	https://www.fmo.nl/project-list
Kreditanstalt für Wiederaufbau Deutsche Investitions und Entwicklungsgesellschaft (KfW/DEG)	https://www.kfw-ipex-bank.de/Suchergebnisse-2.jsp

¹¹ The following databases were used: International Finance Corporation; World Bank; Asian Development Bank; European Bank for Reconstruction and Development.

Agence Française de Développement/Proparco (AFD/Proparco)	http://www.afd.fr/site/afd/categorySearch/ang/en http://carte.afd.fr/proparco/fr/
Japan International Cooperation Agency (JICA)	http://www.jica.go.jp/english/
Overseas Private Investment Corp (OPIC)	https://www.opic.gov/search/node/
Export Import Bank (EXIM Bank)	http://www.exim.gov/advanced-search

The Clinic identified two ways to search the IFC database. The Clinic makes no judgment that one was superior to the other, but notes that both exist and provide different ways of searching the same information:

1. The IFC Project database as shown to the Clinic by Mr. Roasa from IDI: [http://ifcextapps.ifc.org/ifcext/spiwebsite1.nsf/\\$\\$Search?openform](http://ifcextapps.ifc.org/ifcext/spiwebsite1.nsf/$$Search?openform)
2. The World Bank Global Project Map: <http://www.worldbank.org/p2e/mcmap/map.html?code=&level=&indicatorcode=0601&title=Global&org=ifc>

5.2 - Financial Databases and Other Online Sources

Below we describe the relative merits of each of the financial databases the Clinic used. It is noteworthy that sometimes we encountered discrepancies in different databases. In one case, for example, Thomson One and Bloomberg reported similar shareholding numbers, while Capital IQ differed by a few percentage points, a variation that can make a large difference when assessing ownership structures. Overall, because of the varied experiences, we caution against overgeneralization; each case should be considered unique and requiring a certain amount of trial and error with the databases.

Bloomberg Professional - Overall, Clinic members found Bloomberg to be the most useful and reliable financial database. One team reported that with Bloomberg Professional multiple links between the harmful project, a national bank, and the IFC could be confirmed, as Bloomberg contains the financial statements for banks that fund the projects in question. Although some considered Bloomberg cumbersome with the steepest learning curve, experience with the various Bloomberg functions allows for more readily accessible data. For example, one can use the pre-downloaded Excel templates on the Bloomberg machine and search for company-specific data directly on the sheet, eliminating the need to navigate the database, which is both time-intensive and not

intuitive. The Clinic recommends scheduling appointments with the Business librarian at the beginning of the year to learn how to navigate and use Bloomberg efficiently.

Capital IQ - For a memo concerning a mining concession, Capital IQ was the most useful financial database, as it enabled the research team to identify relationship paths among people, companies, and MDBs. Capital IQ was more user-friendly¹² and provided a broader overview of proprietary information and sector analytics. In addition to private sector investments, Capital IQ also contains information on the equity investments of commercial banks.

Orbis/OSIRIS - Clinic members found Orbis, which has some of the same information as Bloomberg, easy to use. One team reported that Orbis clearly lays out shareholder structures and any important news related to the companies. Sometimes Orbis did not have up-to-date information, however, making it necessary to consult other databases to confirm the investments listed. After cross-checking, another team found Orbis had the most robust information for their case and relied on it heavily, then cross checking information again against company reports and Googled information.

Thomson One - Clinic members generally prefer other databases to Thomson One, as it is sometimes difficult to find companies that are easily found on Orbis or Bloomberg. One team reported that the little information available on Thomson One was frequently out-of-date. Another limitation of Thomson One is that it can only be used with Internet Explorer 9.0, a program that only runs on personal computers, not on Apple Macs, which most Clinic members use. Clinic members were able to overcome this limitation through the use of Citrix, an application that mirrors a Windows desktop on a Mac available to SIPA students. However, Thomson One can be useful in finding information about loans more directly than other databases.

Wharton Research Data Services - Although the Wharton Service, which is designed for academic research, offers extensive information through its interfaces with a significant number of databases, they are by and large irrelevant to the Clinic's work. Additionally, for those databases that do show share and subsidiary ownership, Wharton often provides inadequate information for the companies investigated by the Clinic, particularly when compared to Bloomberg or Capital IQ. Although Wharton offers a service which can pinpoint loans, it is limited to North American companies.

¹²The research for this case was conducted before the Clinic learned about the shortcuts with Bloomberg Professional, described above.

FOIA Mapper - FOIA Mapper provides an open-access database of information and records obtained from key US government departments under the Freedom of Information (FOI) Act. FOIA Mapper is only useful for ICM if the initial analysis of the ICM reveals connections to actors with operations, assets or liabilities within the United States. Further, it requires at least a preliminary understanding of the structure and functions of US public bodies. For example, if a fertilizer company in India is part of a US-based conglomerate, the income and shareholding structure of the parent company may be filed with the US Treasury Department. If the Indian subsidiary is engaged in natural resource extraction, the company may be subject to additional reporting requirements under the Dodd-Frank Act, generating additional paperwork that is legally required to be placed in the public domain. If a company has received credit from the Overseas Private Investment Corporation (OPIC), documentation regarding these investments may additionally be available. Finally, in the case of a company importing commodities, consumer goods or perishables into the United States, filings with US Customs and Excise or with the Food and Drug Administration (FDA) may help identify the ultimate source of 'blended' products, such as oil or steel.

Google - Google is useful for confirming the relationships established by the financial databases. Often, companies will refer to their relationships on their websites, in press releases, or in their annual reports. Additionally, the Clinic found media reports and news releases helpful in staying abreast of deals, M&A, and other noteworthy company-specific events in real time.

Factiva - Factiva enables searches of local newspapers and periodicals that often carry information about human rights impacts. It tends to be more useful, however, for cases that have had significant print coverage. However, since most print newspapers now also have an online presence, its value has diminished. At least one Clinic research team found it identified media reports that indicated business relationships that should be explored further in the financial databases, or revealed links between individuals involved in companies' shareholdings. Another Clinic member found that the most useful aspect of Factiva is its ability to retrieve information from newspapers from different geographic regions and in different languages.

5.3 Database Best Practices

Search Checklist

The Clinic recommends that for each ICM memo a "search checklist" be placed in the appendix and summarized in the executive summary. The benefit of a search checklist is

that it gives team members, Clinic peer reviewers, and IDI insight into the research undertaken so that they may recommend additional avenues of research or verify that the research is from accurate sources. The following is a sample format for a search checklist that should be built out by row as searches are conducted. It is recommended that all search keywords be included so the client can see exactly what had been searched, even if the term yielded no pertinent information.

Resource	Keywords/Issues Searched	Results/Information Obtained
Thomson One	SIAT Société d'Investissement pour l'Agriculture Tropicale	
Orbis	All parent company names; first and second tier shareholders	
Land Matrix	Cambodia	
Open Land Contracts	Cambodia	
IFC	"Siat"	

6 – Challenges of Complex Corporate Structures in Establishing Financial Links

Complex corporate structures present a significant challenge in establishing responsibility for human rights impacts, as well as for ICM. As Taylor, Thompson, and Ramasastry note:

It is often difficult to identify the particular business entity involved in an alleged violation. Even assuming that one can identify the particular entity, the use of intermediary holding companies, joint ventures, agency arrangements, etc. are often protected by confidentiality arrangements makes it difficult or impossible to

*establish a connection between that entity and its parent ownership.*¹³

The Clinic worked on cases involving webs of holding companies or shell companies making it hard to confirm information found on databases. At times researchers encountered contradictions across financial databases, annual reports, website information, and/or development bank project databases. The amount of time required to make sense of the financing structure is inordinate, speaking volumes about the lack of transparency within corporate finance. The Clinic's conversation with financial investigative journalist and Senior Editor at the International Consortium of Investigative Journalists (ICIJ), Michael Hudson, shed light on how long investigations take and how painstaking the work can be to build relationships, gather information, and track the flows of money with or without leaks even for seasoned investigative journalists. Following six months of research some Clinic members had developed enough expertise that they could follow hunches without full clarity of the overall financing structure.

It should be noted that much of the information can be found on publically available sources through Google, Yet the synthesis of information from the databases and publicly available sources combined makes these relationships transparent. Moreover, ownership lists found on financial databases often provided an indispensable baseline for understanding which actors to begin researching. When an investment chain map is done well, any remaining gaps can often be filled by community members or their advocates.

¹³ Mark B. Taylor, Robert C. Thompson, Anita Ramasastry, *Overcoming Obstacles to Justice: Improving Access to Judicial Remedies for Business Involvement in Grave Human Rights Abuses*, Fafo, 2010, p. 11.

Section III – Recommendations for Future Clinics

1 – Framing the Clinic

The Clinic's work requires a combination of general knowledge of human rights standards, with an understanding of the strengths and weaknesses of pressure points and related redress mechanisms, including MDBs and other financial institutions, stock exchanges, industry guidelines, and global CSR initiatives. It also relies upon industry-specific knowledge, including an understanding that the unique structure of specific industries often impacts the investment structure of a project, and sheds light on the effectiveness of pressure points.

The Clinic holds value for students and practitioners interested in the fields of human rights, finance and investment, and energy and extractives. The learning that takes place over the course of the Clinic year prepares students interested in working in each of these fields in unique ways.

For **those interested in human rights**, the Clinic offers training in a unique approach to advocacy, one that equips communities with new tools and strategies to defend their rights. The Clinic widens one's perspective of how to engage actors beyond just naming and shaming, or divestment, and enhances understanding of various business and human rights standards and institutions.

For **those interested in finance**, the Clinic offers a method for understanding responsible investment and the importance of human rights due diligence. The Clinic work reveals how investors can, often unwittingly, become linked to rights violations and how best to address these connections (i.e. through engagement or divestment) when they are revealed. Apart from the due diligence aspect of working in finance or investment, understanding the liability shouldered by a company investing in financial intermediaries and large development projects is important for those who are interested in promoting ethical investments or mitigate risk.

For **those interested in energy and extractives**, the Clinic provides an understanding of the role financing plays in developing a large-scale energy or extractive project. The Clinic addresses risk identification and project viability and exposes the types of human rights issues that can occur when environmental and social risks are not addressed properly. The Clinic helps those with an interest in the industry to appreciate the role that positive engagement with communities and states can play in reducing risks.

2 - Building Better Understanding of the Investment Calculus

Understanding finance terminology makes ICM easier, and understanding the business rationale for investment provides direction regarding how investors could be persuaded to act responsibly. For example, understanding that an investment bank is open to receiving information about a targeted project sponsor at the point of entering into an investment negotiation alters the ICM and advocacy strategy to focus on ways to preemptively pressure the bank to change the conditions of the project. It is also valuable to understand how private sector actors perceive and conduct human rights due diligence in their projects.

The 2015-16 Clinic aimed to develop understanding of the investment calculus through meetings with practitioners, including investors. The Clinic also met with a lawyer who had conducted human rights due diligence on prospective projects for his firm's corporate clients. Businesses will often hire independent consultants to carry out risk assessments before a project is undertaken or an investment or credit decision is made, however these risk assessments should also cover a wide range of violations, such as FPIC. In practice the quality of these assessments varies widely. In one case, the Environmental and Social Impact Assessment (ESIA) was only carried out after the project had begun and largely ignores the concerns of the affected communities. The Crédit Agricole representatives said they would not finance a project with human rights violations, but also recognized that in some instances, they only became aware of harms after the financing had been provided.

Future Clinics will be well served by monitoring who conducts risk assessments, and to what degree of accuracy. This can be facilitated through meetings with institutional investors, transactional lawyers, and other investment actors. Having a class or two where members would read and discuss relevant business material or speak with industry experts about the investment calculus is recommended. Future Clinics might also send members to attend industry events or have more guest speakers from the business world.

Understanding the business rationale for each project researched by the Clinic could potentially lead to finding further pressure points. The business rationale reveals what is at stake economically for each investment chain actor. Some members suggested incorporating "understanding the investment calculus" as a topic within the course.

More students with business and finance backgrounds could enrich the Clinic work and experience for everyone - the difference in strengths and perspectives can produce better synergies. Finding a way to engage business school students could productively create desirable synergies for all students.

3 - Security Concerns

3.1 - Security Concerns for Affected Communities/Recommendations

Security concerns for affected communities are palpable. Before presenting to affected communities in March 2016, Clinic members learned that community protests at times had become violent and that the communities had been threatened by local officials. In one case, arrests had already been made of opponents of the project. In another, activists had been beaten by pro-project mobs. The investors in a number of cases the Clinic worked on have close relationships with governments, which means that challenging them is often no different from challenging the government.

The Clinic is thus sensitive to the need to inform project-affected communities of the potential risks and consequences of the advocacy strategies it proposes. IDI's local partners are typically best positioned to evaluate the risks of advocacy, and many have implemented mitigating protocols and measures, and taken steps to ensure the compliance and collaboration of their international partners, including IDI. Yet, while it is up to the community to choose whether or not to take on potential risks through approaches proposed by IDI and the Clinic, there may be instances where communities and local NGOs lack the awareness or ability to assess potential risks, or may otherwise hesitate to enforce stricter standards for security and confidentiality for fear of losing the opportunity to benefit from the work of IDI and the Clinic.

Moreover, security concerns warrant particular attention in cases where IDI does not have an existing relationship with the affected communities to whom the Clinic's research is presented or are deprived of guidance and assistance from local NGOs. In these cases, the Clinic and IDI are not well-positioned to advise or communicate the potential security ramifications, and therefore it is desirable for IDI and the Clinic to make certain these concerns are sufficiently considered and addressed.

Recommendations: Security concerns should be evaluated on a case-by-case basis and appropriate actions taken in relation to the particular risks involved, as is IDI's current practice.

Communication with local communities should be conducted with proper caution and concern for confidentiality. Local NGOs who are partnering with IDI or otherwise engaged in these projects might include in their communications with communities a protocol that clarifies the risks of pursuing advocacy options.

The Clinic could engage organizations like ACCESS NOW to perform an analysis of ways in which the Clinic could work more securely. The Clinic may devote one session to the

risks involved in its work, including digital security and surveillance or exploring online toolkits on digital defense targeted for human rights defenders.¹⁴ Future Clinics should build upon discussions of security concerns begun in the first year, and with IDI develop protocols that will then be extended to the affected communities it works with.

3.2 - Security Concerns for the Clinic Work/Recommendations

In conducting ICM, researchers leave traceable digital footprints. Members of the Clinic found critical information about certain individuals on LinkedIn. LinkedIn must be accessed through a personal account, and thus searches can be traced back to the user. For another case, members created a series of “dummy” accounts for social media platforms such as LinkedIn, Twitter and Facebook, enabling them to “follow” users who appeared in the ICM in order to obtain critical information, including travel itineraries, professional connections and prior employment history. The Clinic withheld case information from external parties unless consent to identify the case was given by IDI.

Recommendations: To mitigate risk, digital security of the Clinic and of IDI could be improved through:

- Communicating via end-to-end PGP encrypted email
- Developing detailed confidentiality protocols, delineating the extent of information allowed to be revealed and under what scenarios, including for purposes of education, publicity, personal sharing (such as posting Clinic-related events or insights on social media platforms like Facebook, for instance) or job-seeking
- Executing a nondisclosure agreement with each Clinic member at the beginning of the Clinic to underscore the gravity of security concerns.
- Requesting the IT department of Columbia University to provide Clinic members with a more secure cloud as opposed to Google Drive
- Designating one member of the Clinic as the 'data/security tsar', a point person for questions about sharing data or storing it securely
- Conducting a preliminary threat analysis for each case that identifies the potential risks to communities/NGOs/IDI before a case begins (and updating it periodically as the investigation progresses) so that any research and advocacy design is informed by an awareness of these risks
- Creating a dummy account and sharing it among Clinic members for searching online databases (such as LinkedIn) where the subject of research will be notified of the search, or may otherwise be able to discover the search

¹⁴For example, Surveillance Self-Defense, an online toolkit (<https://ssd.eff.org/>) set up by the Electronic Frontier Foundation.

Particularly because engagement with people outside of the Clinic is so important to the Clinic's work, future Clinics should have a conversation with IDI on confidentiality protocol governing research and discussions with members outside the Clinic early on in the year.

4 - What Clinic Members Learned / Clinic Elements that Should Be Retained

Learning to use the financial databases, and gaining a better understanding of financial structures and terms, the ability to analyze the connections between actors financing development projects and the harms on the ground are key learnings members took away from the Clinic. Members also learned what makes for a successful human rights advocacy strategy through a deep dive into the strengths and weaknesses of business and human rights accountability mechanisms; researching different corporate accountability standards; exploring the viability of grievance mechanisms of development banks that are linked to harms funded by financial intermediaries; understanding the ins and outs of human rights due diligence procedures; and examining the nuances of undertaking advocacy within different sectors.

Members are leaving the Clinic with better research skills for identifying crucial actors in an investment, and for analyzing to what extent each actor might be responsive to human rights advocacy. The Clinic allowed members to realize the importance of sticking with this work over the long-term. Even if a case takes a long time to resolve - or never resolves - with proper redress for affected communities, the work is still crucial to undertake for two main reasons: 1) it is important to recognize the affected communities and the harms they have suffered; and 2) the work lays the foundation for a follow-up advocacy or legal strategy, and builds upon work that has already been done.

Beyond learning how to bridge the gap between systemic, large-scale issues and on-the-ground violations through tools such as ICM, Clinic members also learned tangible and transferable skills such as how to manage and participate in a complex research project with multiple moving parts and perspectives, and as team members.

Aspects of the Clinic that members most valued were:

- **Site visits:** Clinic members deeply appreciated the opportunity to present to affected communities, meet the people working for advocacy groups on the ground and hearing their perspective on the Clinic's work, seeing research and advocacy come together simultaneously, and seeing how it might fit into the communities' own ideas and plans.

- **Teaching each other and learning about pressure points:** During two sessions Clinic members taught each other about potential avenues for advocacy and pressure points, which then showed up in their research for their case studies. Future Clinics should use and build upon this work.
- **Increasing financial knowledge while learning how to map investment chains**
- **Hearing from experts:** The opportunity to meet with experts, specifically Lalanath De Silva, Daniel Adler, and Michael Hudson.¹⁵
- **Working as part of a diverse team:** Everyone valued working within a diverse team and enjoying the complementarities between the members' different backgrounds. Members were able to learn from one another as well as alongside each other.
- **Working with IDI:** Clinic members valued learning directly from IDI.

5 – Innovations of the Clinic

The Clinic is a laboratory for testing innovative methodologies to strengthen accountability of corporations and financial institutions. The methodology provides an opportunity to utilize Columbia's resources to tangibly add value to communities whose rights are being infringed upon. The diversity of the members of the Clinic, which is open to all SIPA concentrations, to the Human Rights Studies Masters Program and LLM students of Columbia Law School, enhances the experience of individual members. Student teaching sessions on topics pertinent to the Clinic, discussion and exchanges amongst members on assigned cases, and peer reviewing each other's reports, proffer abundant opportunities for members of the Clinic to take advantage of the expertise within the Clinic.

For students in the more academically-oriented MA in Human Rights Studies program, this course provides a much needed connection with the practical application of many human rights concepts. Additionally, the opportunity to work directly with a client, as well as contribute to work that is directly relevant to the field, is unique for the program, and helps provide a more holistic understanding of human rights practice.

For SIPA students, the one-year duration of the Clinic allows its members to probe deeper into the work and to develop both soft and hard skills that are not typically offered by Capstone projects. The combination of seminar learning and experience, as well as

¹⁵ Please see Appendix B for a full list of guest-speakers and experts consulted over the year.

having different student groups working on a series of small projects that form parts of a bigger theme and sharing their respective work, makes the Clinic distinctive.

The Clinic provides the opportunity for law students with a public interest background to address human rights issues through both legal and non-legal institutions. It exposes lawyers who have practiced corporate law to the human rights implications of large-scale commercial transactions and complex project finance, and instills a sense of the importance of human rights due diligence in providing transactional advice to corporate clients.

One Clinic member summed up their experience as follows:

“The Clinic has completely shaped my experience for my degree. Since my program is so academically oriented, producing real work and real results for people in need brought what I was studying into the realm of the real world. In addition to skills such as coordination, teamwork, and professionalism, I have also learned a lot from interacting with peers from many different areas of expertise, and in conducting the ICM itself. This was my first introduction to the world of business, and I believe that I have got a much better understanding and grasp of not only violations, but also about how different initiatives are working to hold the corporate world more accountable.”

6 - Future Clinic Research

Based on the experience of the first year, members foresee a number of directions future Clinic work could take:

- **Deeper study of the effectiveness of particular pressure points** across a variety of situations. Since pressure points are constantly evolving they must be monitored over time and reevaluated. Research might be conducted on how the frontier of corporate accountability is being pushed and shaped by increasingly stronger business and human rights standards, and how companies are reinventing themselves to keep up. Some of the major investors that are involved in several of the projects the Clinic researched, such as State Street and BlackRock, might be investigated further to see if they have responded to advocacy previously, or if there is potential that they would, if confronted with many cases based on ICM. It would also be useful to research past reactions of specific sectors and industries to advocacy work, which could add to the Clinic's understanding of pressure point analysis. The Clinic could also delve deeper into

potential pressure points that have not been well tested, such as stock exchanges, the Universal Periodic Review, and national human rights institutions.

- **Applying ICM methodology to other sectors.** A future Clinic might conduct similar research in the telecommunications, labor, environment, and the arms sectors. In partnership with organized labor, the Clinic could also investigate how employees instead of shareholders might use their leverage to encourage companies to behave in accordance with established human rights standards.
- **Incorporating tools and methodologies from other professions.** The Clinic benefitted from hearing from experts in related fields, including journalism and corporate law. ICM and pressure point analysis could be further developed in the Clinic by incorporating approaches used by these professions and others.
- **Sharing maps and methodologies with other stakeholders.** There may be times when it is beneficial to share the Clinic's investment chain maps with other stakeholders. When Irit Tamir of Oxfam came to speak with the Clinic she commented that the kinds of memos the Clinic produces would be useful to Oxfam's more public campaigns. The Clinic's discussion with Adam Kanzer at Domini about social investing also pointed to another sector that would benefit from the Clinic's research on upstream investors.
- **Devising advocacy strategies.** Ideally, the first semester of the Clinic could be centered around learning the FtM and ICM methodology while the second semester would focus on developing advocacy strategies. Weekly case updates during the seminar sessions could be enhanced by advocacy strategy brainstorming sessions. Clinic members would be encouraged to think outside the box with their suggestions and think more broadly about concrete strategies that a community might use to further its goals. In doing so, the Clinic would be able to take advantage of the experience within the Clinic and provide memo drafters with ideas for further research. Clinic members interested in human rights advocacy work could also be encouraged to take Jo Becker's Human Rights Skills and Advocacy course alongside the Clinic. Columbia faculty Sarah Knuckey, Ben Hoffman, and Minky Worden are also advocacy experts a future Clinic could draw upon.
- **Providing tools to communities.** A future Clinic could devise tool kits and templates, including, for example, templates for communities to use when writing letters seeking redress for human rights issues. Future Clinic members might learn from the model of IDI's complaint letters and work on similar products for ongoing

and future cases.

- **Conduct research on how to influence different financial actors.** Clinic members might conduct interviews with industry professionals to understand better how to influence them. Specific questions might include: How do they proceed when they evaluate an investment opportunity? How do they take into account potential human rights potential issues? If we were to bring to them a project where they have stakes in where we had found human rights issues, how would they react? What would be the best way to open a productive discussion? And what would it take for them to consider not investing in a harmful project? Such research could lead to the production of white papers for each actor.

7 – Improving the Clinic Experience

Clinic members suggest the following recommendations to improve the Clinic.

7.1 – Systematizing and Streamlining the Casework

Members felt that the initial stages of the research process were sometimes redundant for cases in which advocacy and research had been undertaken before the request was handed to a Clinic research team. At first, Clinic members spent a significant amount of time summarizing information from other sources. As the year progressed, however, Clinic members realized that they should simply reference a major report by a respected organization, instead of reproducing that report's research in the memo, a practice the Clinic recommends be continued in future years.

Clinic members enjoyed the analytic aspect of the work, and the opportunity to be creative in the research that cases with less initial background information afforded. However, they also recognized the need to work quickly to get the information into the hands of the communities, which sometimes sat in tension with the need to be thorough and to probe for new connections. It was a challenge to know when to prioritize expediency and when to take more time to submit more thorough analytical memos.

The approach to the casework varied from one case to another and evolved significantly by the end of the Clinic. Clinic members strived throughout to develop need a more systematic way to conduct research. At the same time, the Clinic recognize a risk of over-systemization, which could result in important facts being missed. A step-by-step process that would be flexible enough to allow researchers to analyze and create links to pressure points, while also clear enough to be followed by people new to FtM research, could address this concern.

Based upon these considerations, the following steps are recommended:

- The specific research needs and goals of IDI, as well as the limits of the research, should be stated precisely before any research starts. If possible, IDI, the designated Clinic team, and the requester should meet via teleconference to discuss the request.
- Upon receiving the request form, the research team should first read the information provided by IDI carefully.
- Next, the team should check the advocacy that has already taken place on this case before searching for business and financial information that can reveal pressure points.
- Once the team is familiarized with the project by going through the provided materials and studying the written request, they should schedule a call, or communicate via email with IDI to clarify expectations.
- The team should then systematically check the links of the project with various well-known and previously identified financial institutions (that are already known to be relevant pressure points).
- The team should then consult annual reports of the main companies as well as press releases and news articles with the keywords of the project and the responsible companies.
- A search in the financial databases should be undertaken to confirm much of the information.
- At this point the research team can draft potential advocacy strategies.
- This draft should be presented to the entire Clinic for a workshop session/discussion reviewing cases, to capitalize on the different perspectives Clinic members bring to the case.
- Based on the suggestions made by other members of the Clinic, the research team can then conduct follow up research.
- Finally, the team submits the memo to IDI for a first round of comments.

7.2 – Administrative and Time Management Challenges/Recommendations

Clinic members identified three main administrative and time management challenges: First, it was a challenge for Clinic members to balance the Client's ICM requests with the classroom assignments that were intended to build student research capacity. This balance was further complicated by unexpected changes in research focus and research priority required by the Client as circumstances on the ground shifted. The priority cases of the Client and the Client timeline were often not clear to Clinic members, resulting in sometimes conflicting deadlines. Second, Clinic members felt the experience they brought to the Clinic was undervalued and therefore underutilized by the Client. Third, within the weekly meetings, Clinic members wished to limit the amount of class time devoted to project management and free it up for more substantive discussions of the work content.

Recommendations:

- **Assign clear roles and responsibilities to Clinic members** at the beginning of the first semester, and consider rotating roles for the second semester. The Clinic learned that the traditional Capstone roles did not fit the Clinic model. For example, early on in the year it was determined that a single Client Liaison did not make sense for the Clinic, since all teams needed to have regular access to IDI. Instead, because of the case-based nature of the work, the Clinic determined that a Project Coordinator was needed to manage the onboarding and delivery of cases and deadlines. There are several roles tailor-made for the Clinic that are recommended: Project/Case-Work Coordinator, Guest-Speaker Coordinator, Travel Coordinator and Liaison, and Interim and Final Report Editors. Other roles such as Note-Taker and Tech-Coordinator could be rotated during the semester.
- **Standardize processes** - A standard format for memos, investment chain maps, tracking how research is undertaken, and citations should be considered. Future Clinics should refer to the memos produced over the course of 2015-2016 to avoid reinventing the wheel.
- **Identify or build time-saving technical tools in the research methodology** - Future Clinics may want to consider building web-based tools that allow for searching all public online databases in one go. Instead of searching for a particular company name in the databases of all IFIs, such a tool would perform the search and return results to a single page. An open source example is Google's Custom Search Engine Tool.

- **Develop more regular communication with IDI** - Skype calls should be set up between IDI and the Clinic team to give a background on the case and the requester's needs. Additionally, the preliminary check-in with IDI initiated in the last round of memos ensured clearer communication by providing an initial list of investors and proposed direction of research.
- **Stay with a case all the way through to crafting and presenting advocacy campaigns** - Clinic members see great scope for learning in having the opportunity to stick with a case and continue providing input as advocacy campaigns are developed with the community throughout the year. Within the scope of what is possible, given the slow and unpredictable unfolding of most advocacy campaigns, it would be ideal if Clinic members were given an appropriate role at the outset as they help brainstorm strategies for the case, or follow up with cases already in progress.
- **Set clear expectations, deliverables, and due dates** with the Client and professor. Improve communication through, consistent check-ins with the Client, the professor, and the Clinic members to ensure that all are on the same page.
- **Encourage Clinic members to log hours and update the tracking sheet at each stage of progress on their casework.** At the start of the second semester, this year's Clinic decided to institute a system to log hours, in order to record and establish the time required to complete a memo. If instituted consistently throughout the year, the practice can: a) create a baseline for the time it takes to do a particular task; and b) identify points in the mapping process that could be made more efficient. From the perspective of this year's Coordinator, having one person in charge of managing the Coordination document the Clinic created on the Google drive worked well as a primary resource for communicating team assignments, progress on memos, and deadlines between IDI and the Clinic. However, it is necessary for all Clinic research teams and Clinic members to update the document on a regular basis to avoid miscommunication regarding the status of cases.
- **Formalize the number of memos to be delivered to the Client over the course of the year,** in order that other class assignments, might be more easily scheduled. Determining the number of memos, the cohort can feasibly produce depends in part on the expertise within the group and the depth of research required. This year, each Clinic member took on an average of three cases or projects over the

year, with some individuals researching up to six. Arrangements can be made for a heavier student load in the case of an urgent need.¹⁶

- **Ensure that notes taken during class time by the note-takers are thorough so that deliverables and expectations are clear to all members.** Because of the multiple moving parts of the Clinic work and the packed sessions, clear note taking referenced regularly by Clinic members will help to avoid miscommunication and tasks falling through the cracks.
- **Decide on trip opportunities with ample advance time for preparation.** For international students, it is crucial to have sufficient time to apply for travel documents. Itineraries and communication on what to expect during the trip are particularly helpful for students traveling to a new location.
- **Assign cases based on Clinic members' backgrounds** - In assigning cases, the composition of teams should capitalize on members' background, experience, skills and interests, where possible. Regional-specific knowledge is also beneficial for researchers. By building expertise on particular countries or regions, researchers can quickly gain context about a given project based on an understanding of a country's state of press freedom, typical sources for financial information and familiarity with officials or actors that may have a history of engagement with development projects in the region, and map out potential partners or experts for obtaining additional information. Given the increasingly dominant role of Chinese investors, including the Chinese-led Asian Investment Infrastructure Bank, and Chinese enterprises in the investment landscape, Chinese-language speakers who can conduct online searches in Chinese on the Clinic team is highly desirable.
- **During weekly sessions, set aside time for quick status updates for memos.** The Coordinator would be in charge of sending an update to IDI based on every week.
- **Assign a peer review and fact check at the time the teams are assigned to cases.** Deadlines should then be discussed and decided upon between the relevant Clinic team, fact-check/peer-review team, the professor, and IDI

¹⁶Not all Clinic members felt the need for the number of memos to be set. One member felt that given the urgency of all of the work to support communities, the Clinic should be nimble and learn how to accept assignments as they come.

7.3 - Recommendations to Improve the Teaching and Learning

- **Create an intentional practice of knowledge sharing within the Clinic.** Devote class time to pressure points, industry learning, advocacy strategies, and case updates. This can be achieved by devoting time in each Clinic session to case updates, where members share findings on investors they are investigating or troubleshoot roadblocks teams are having. Arranging weekly or bi-weekly meeting times outside of class time is recommended, if Clinic members can find a mutually agreeable time.
- **Identify knowledge gaps early and address them.** One way to address knowledge gaps is to build course lectures around them. As noted above, Clinic members found the experience of researching different potential pressure points and then teaching them to each other to be extremely helpful. The professor might consider having prerequisites for the course, such as the Business and Human Rights course and/or Professor Jo Becker's Human Rights Skills and Advocacy. Hands-on teaching from the client would also help Clinic members and improve both the efficiency and content of the work output. Future Clinics might also invite past members to share their experience.
- **Develop industry expertise.** Clinic teams might identify a specific industry and conduct in-depth research on industry practices and conditions to identify specific patterns or strategic 'weak spots' for each. Or they might take a deep dive into recurring corporate players such as State Street or Black Rock. and evaluate their responses to previous advocacy. As with the pressure point peer teaching exercise described above, members might teach one another the basics about a given industry.
- **Develop financial market expertise.** It is important to provide an overview of financial markets and project finance early on in the semester. Other useful projects could include compiling a database of compliance officers within financial institutions or, as noted above, bringing in guest lecturers to explain human rights due diligence.

Annex: Guest Speakers and Experts Consulted

Organized according to date visited or Skype call held.

NAME	AFFILIATION	PROJECT
Adam Kanzer	Domini Social Investors	N/A
Irit Tamir	Oxfam	Behind the Brands
James Guidera	Crédit Agricole / SIPA	N/A
Matthieu Rousson	Crédit Agricole	N/A
Ryan Brightwell¹⁷	BankTrack	IOI Corporations Malaysia
Daniel Adler	Compliance Advisory Ombudsman (CAO) for the IFC	N/A
Mike Hudson	International Consortium of Investigative Journalists (ICIJ)	N/A
Lalanath de Silva	Asian Development Bank Compliance Review Panel	N/A
Mark Grimsditch	Inclusive Development International	Chinese State-Owned Enterprises
Norman Bartczak	SIPA	Financial Statement Analysis

¹⁷ During the session with Ryan Brightwell, the Clinic learned that BankTrack commissions an external Netherlands-based company [Profundo](#) to conduct its investment chain research. Profundo is a fee-based service that provides investor information on projects for clients.