Actions speak louder:

2024 update on bank responses to human rights violations

May 2024

BANKTRACK

Introduction

A new BankTrack analysis of banks' responses to specific human rights allegations raised by civil society shows a worrying downward trend: fewer public responses, a decrease in quality of responses, and fewer instances of banks taking action to address the issues raised.

BankTrack analysed 68 communications between civil society groups and banks, covering six cases of human rights allegations that have been brought by civil society organisations to 36 different banks since October 2022. The analysis has been added to BankTrack's Response Tracking database, which now includes 223 communications between civil society groups and banks, covering 19 cases and 52 banks since 2021. The database, which is part of BankTrack's Human Rights Benchmark project, has been published in a new, fully collated and searchable format for the first time.

The new cases include banks with financial links to companies operating in the Occupied Palestinian Territories, banks profiting from the construction and hotel boom in Qatar, and banks financing Santos' Barossa gas project in Australia.[1]

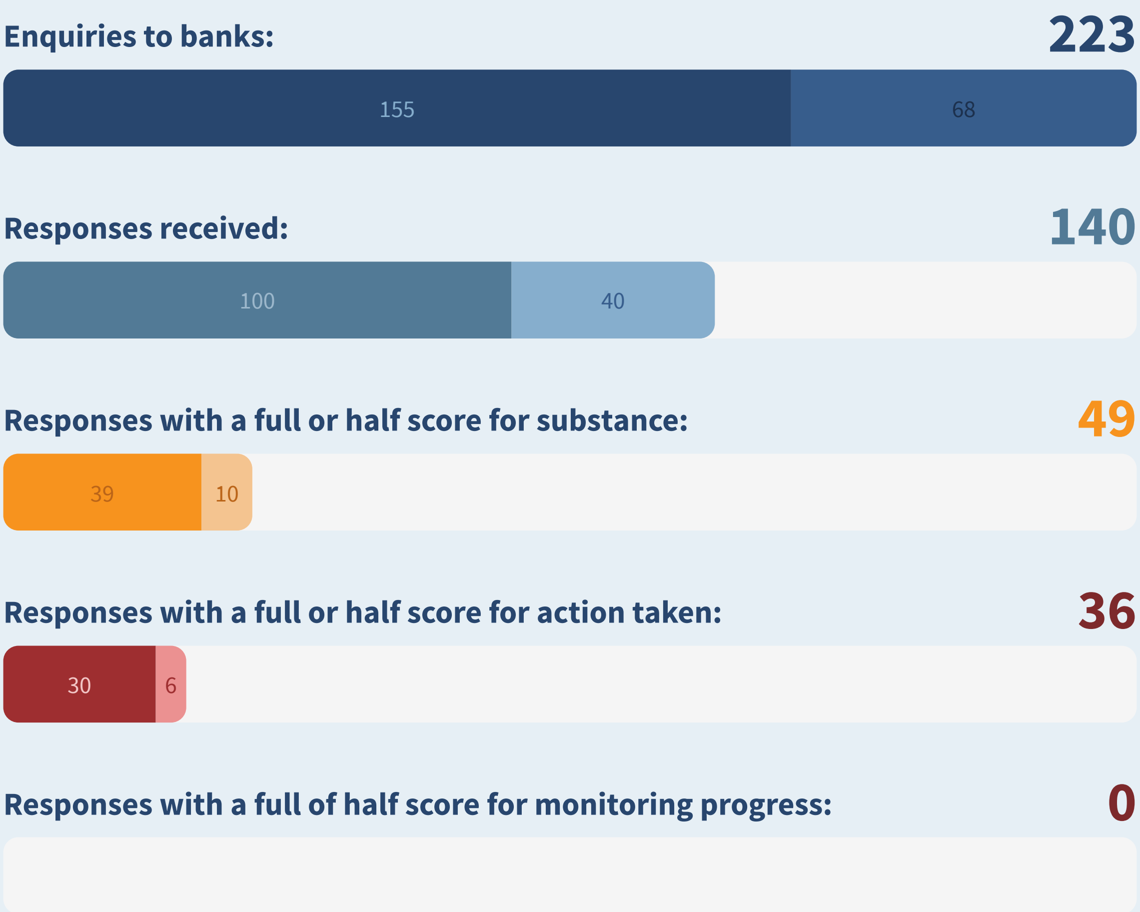
Where banks responded publicly, their responses were assessed based on three criteria: whether they **responded substantively,** in a way that addresses the allegations raised; whether they have taken appropriate **action** to prevent, mitigate or address the impact raised; and whether they have **monitored** the steps they have taken to assess their effectiveness. Each bank's response was assigned a score of 0, 0.5 or 1 for each criterion, following the same approach first outlined in BankTrack's Actions Speak Louder report, and later integrated in BankTrack's Human Rights Benchmark methodology.

The findings show a decline in scores on both substantive responses and appropriate action, and continue to show no evidence of banks monitoring the effectiveness of the steps they have taken to address human rights impacts.

Key Findings

1. **Decrease in responsiveness:** Banks are responding less often to civil society allegations of human rights violations. Following the addition of the six new cases, the overall response rate has reduced from 65% to 63%.
2. **Deteriorating response quality:** Where banks did respond, they were less likely to acknowledge their links to the alleged violations or to address the substance of the issues raised. The percentage of responses receiving a response score above 0 has reduced from 39% to 35%.
3. **Banks rarely set out any action taken:** Banks almost never set out concrete and meaningful actions they have taken to address the issues raised. The percentage of responses receiving an action score above 0 has reduced from 30% to 26%.
4. **Consistent lack of monitoring:** Banks continue to fail to demonstrate that they are ensuring the effectiveness of action taken, with no bank receiving a score for showing that it followed up its response to an allegation to assess its effectiveness.

Response Tracking results



First bar: Enquiries raised before October 2022. Second bar: Newer enquiries.

Why banks' responses matter

The UN Guiding Principles on Business and Human Rights (UNGPs) outline the responsibilities of business enterprises on how to prevent, address, and remedy human rights abuses. Business enterprises, including banks, should "know and show" that they respect human rights. "Showing" involves communicating externally, providing a measure of transparency and accountability.

While developing human rights policies and robust due diligence processes is important, it is not sufficient for a bank to fully meet its responsibilities under the UNGPs. To do so, it must also publicly disclose how human rights impacts are addressed. This is captured in **Guiding Principle 20**, which states that business enterprises should communicate efforts to address human rights impacts externally, "particularly when concerns are raised by or on behalf of affected stakeholders."

Following this standard, banks should respond substantively and engage constructively when human rights issues are raised by affected rights holders and their representatives.[2] To do so shows a careful consideration of the issues raised, demonstrates good practice and understanding of their human rights responsibilities, and is an essential part of an effective due diligence process that prevents and addresses negative impacts on rights-holders.

Demonstrators hold a banner reading "Don't destroy the Tiwis - Stop Barossa Gas".
One of the cases covered in the new update refers to banks' finance to Santos' Barossa gas project
Photo: Environment Centre NT via Twitter

Decrease in responsiveness

Banks are publicly responding to human rights allegations raised by civil society less frequently. Banks responded publicly 40 out of the 68 times they were contacted, or at a rate of 59%. This compares to a response rate of 65% prior to this update.

Of the 36 banks contacted for this update, eight did not respond at all, while 16 banks responded to every allegation raised (ranging from 1 to 4 instances of contact).

Among the 223 communications analysed since 2021, only **4 banks** that were contacted in relation to 5 or more allegations have a response rate score of **80% or above**:

- **Mizuho** responded 8 out of 8 times **(100%)**,
- **Crédit Agricole** responded 9 out of 10 times **(90%)**,
- **Standard Chartered** responded 6 out of 7 times **(86%)**; and
- **BNP Paribas** responded 8 out of 10 times **(80%)**.

Deteriorating response quality

When civil society organisations raise legitimate enquiries of human rights violations on behalf of rights holders, banks have a responsibility not only to respond, but to respond in a way that addresses the issue raised and shows due and careful consideration for affected communities.

Our research finds, however, that the quality of bank responses is very poor. Scores on our first criterion — responding substantively — have declined over time. Prior to the 2023 update, 39% of responses received a score above 0 for responding substantively. However, of the 40 public responses received in relation to the new allegations, only 10 achieved a score (25%). Of these, only two responses, by **Nordea** and **Royal Bank of Canada**, received a full score (7). In both instances, the banks acknowledged that they were connected to the allegations and responded to the substance of the human rights issues raised.

Following the update, out of the 12 banks which were contacted in relation to 5 or more allegations, the highest-scoring when it comes to responding substantively were **Société Générale** with an average response score of **0.33**, and **JPMorgan Chase** and **Standard Chartered** with an average response score of **0.29**. These low average scores show that even the most responsive banks are in fact not responding meaningfully and substantially that often when allegations are raised.

Overall, banks are too often avoiding giving clear and direct answers to enquiries, leaving affected rights holders and their representatives hanging in the balance.

Banks rarely set out any action taken

Most problematically, banks that provided a public response to enquiries from civil society organisations almost never set out concrete and meaningful actions taken to address the issues raised.

Prior to the new analysis, only 30% of public responses scored above 0 on our second criterion, on action taken. In the latest update, this rate dropped even lower, as six out of 40 responses (15%) received a score for action. The remaining 85% of responses did not set out any action taken on issues raised.

In the new update, the only bank that scored a full point on action under any allegation was **Nordea**, which, in relation to its links to the construction and hospitality sectors in Qatar, explained its exposure and how it engaged with the companies on the allegations raised.[3]

This brings the total instances of responses receiving a full score on action to 3 out of 140 — the other two being **BNP Paribas** in response to paramilitary violence in Colombia and **Credit Suisse** in response to the East African Crude Oil Pipeline (prior to its takeover by UBS).

These findings paint a bleak picture: banks are failing to show that they are doing enough.

Banks have not made any progress on monitoring

When it comes to monitoring the measures taken by their clients or investee companies to address specific impacts, or actions banks took themselves, there is still a glaring gap in practice. None of the 36 banks included in the new analysis achieved a score on our third criterion on monitoring. To achieve a half score on this criterion, a bank needs to regularly monitor its or its clients' actions to address an impact to ensure these are effective; for a full score it should seek the views of impacted rights-holders in this assessment. Even with this relatively low requirement, no bank has yet achieved a half or full score on this criteria. This is consistent with findings from previous research.

This highlights the urgent need for banks to prioritise vigilant monitoring practices to ensure that the actions taken, whether by their clients, investee companies, or themselves, effectively address the adverse human rights impacts.

Protesters from Attac Austria outside Raiffeisen's 2024 AGM. Banks were contacted about their role in assisting Russia with war mobilisation efforts
Photo: Julian Kragler

Conclusion

This analysis unveils a concerning trajectory in how banks respond to human rights allegations raised by civil society. The findings underscore a general lack of responsiveness and substantive action from banks when specific human rights concerns are raised with them by affected rights holders and their legitimate representatives.

At the same time, the positive examples in the database highlight that things can be different. Banks have also shown that responding meaningfully and constructively to human rights concerns raised on behalf of affected rights-holders is possible, and that they can disclose details on actions taken in response to specific violations. This demonstrates that some banks are willing to overcome barriers such as client confidentiality to address the concerns of affected rights holders, and that, when raised, issues are taken seriously, and something is being done to address them.

However, these positive examples remain limited, and our recent findings indicate a downward trend. As such, it is imperative that banks make progress by becoming more responsive and showing they are taking action when human rights allegations are raised with them. The UN Guiding Principles on Business and Human Rights (UNGPs) call on business, including banks, to be accountable for how human rights impacts are addressed by publicly disclosing this, "particularly when concerns are raised by or on behalf of affected stakeholders" (Principle 20). Failure to do so may raise questions about banks' adequate implementation of the UNGPs and the meaningfulness of their policies, highlighting a gap between human rights commitments on paper and actual practice.

In a context where human rights are increasingly under threat globally, where the European Union has passed watered down due diligence legislation that largely gives banks a free pass, and where banks are renouncing their own bare minimum commitments to respect human rights and the environment in project finance, our results should serve as an alarming call to action to both banks and regulators. For banks, well-elaborated policy positions on human rights are not enough: banks need to show they are taking action. For regulators, the commercial banking sector should be fully included in legislation to ensure human rights due diligence and end corporate impunity for violations.

One of the cases covered in the new update refers to the 2023 Don't Buy into Occupation report
Photo: AlHaq

Endnotes

1 The human rights allegations banks were contacted about are the following:

- **Don't Buy into Occupation II report**: 20 banks were approached about their financial links to companies operating in the Occupied Palestinian Territory.
- **Finance for JBS:** 8 banks were contacted over their finance for meat company JBS and questioned about their links to deforestation in the Brazilian Amazon.
- **Profiting from the construction and hotel boom in Qatar report**: 14 banks were questioned for their finance to companies profiting from human rights violations in Qatar's construction and hospitality sectors.
- **Assisting with war mobilisation in Russia**: five banks were questioned about their role in assisting Russia with war mobilisation efforts.
- **Santos' Barossa gas project**: 11 banks were contacted about their links to Santos and its controversial Barossa project, which impacts Indigenous Tiwi peoples and their livelihoods.
- **Finance for Saudi Aramco:** 10 banks were questioned about their continued finance for Saudi Aramco, the world's biggest corporate emitter, and human rights impacts stemming from climate change.

2 A constructive response should ideally include recognition of the bank's link to an impact, where such a link exists. This may require overcoming the barrier of client confidentiality requirements, such as by seeking client consent to disclose the existence of a lending relationship. As the OECD's 2019 guidance on Due Diligence for Responsible Corporate Lending and Securities Underwriting recognises, banks can seek such consent systematically, e.g. at the outset of a lending relationship. See "We are unable to comment on specific customers" (BankTrack, 2019) for a more extensive discussion of client confidentiality and recommendations for improving transparency.

3 Nordea Bank received a full score for its response to "Profiting from the construction and hotel boom in Qatar (2022)" and Royal Bank of Canada for its response to "Santos' Barossa gas project, Australia (July 2023)". See the full database for the responses and our analysis.

Reassessments

In addition to the new analysis set out above, previous Response Tracking scores were reassessed and a number of changes were made to ensure consistency and reflect the most recent available information.

East African Crude Oil Pipeline (March 2021):

- Four banks, **Barclays, HSBC, Mizuho,** and **Royal Bank of Canada** each had their "action" scores lowered from 1 to 0.5, bringing their total scores in relation to the impact to 1. Despite the banks publicly stating that they will not finance the project, they all remain exposed to TotalEnergies, the project developer. None of the banks have set out specific actions that they require (or will require) the company to take to prevent or mitigate the impacts raised, and thus, do not satisfy the criteria for a full action score.
- Two banks, **Mitsubishi UFJ Financial Group** and **Sumitomo Mitsui Financial Group** had their "response" and "action" scores increased from 0 to 0.5, bringing each of their total scores in relation to the impact to 1. Both of the banks released public statements that they will not finance the project, but their responses did not address the substance of the issues raised and, similar to the banks above, they remain exposed to TotalEnergies.
- Four banks, **Citi, Deutsche Bank, Morgan Stanley,** and **Standard Chartered** had their rationales updated following new public statements and media reports. None of the banks received a change in score.

Myanmar: Equity exposure to companies linked to the military regime (October 2021):

- **Crédit Agricole** received a tick for response, had its "response" score increased from 0 to 1, and its "action" score increased from 0 to 0.5. The bank provided a public response that acknowledged its exposure to the impact and commented on the substance of the issues raised. It also stated that it has initiated engagement with certain companies, but it did not set out clear steps required from its clients or taken by the bank to address the impacts raised.
- Seven banks, **BPCE, Bank of America, Deutsche Bank, DZ Bank, Mitsubishi UFJ Financial Group, Sumitomo Mitsui Trust Holdings,** and **UBS** each received a tick for response and had their rationales updated following public responses. None of the banks received a change in score.

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