

5 Human Rights Accountability at the World Bank

In the present chapter, I set the stage for the two following empirical case studies. Both case studies focus on transnational movement activism toward the World Bank. In Section 5.1, I introduce the World Bank as an international organization and, specifically, its activities as a multilateral development bank (MDB). Then, I lay ground for my case studies by translating the concept of human rights accountability into World Bank language. In concrete terms, I establish the intimate connection between human rights standards and transparency on the one hand, and World Bank safeguards and operational policies (OPs) on the other (5.2). I then relate the third pillar of accountability—“sanctions in case of noncompliance”—to the World Bank Inspection Panel in Section 5.3. To provide an overview upfront, I summarize the outcomes of both case studies in Section 5.4. Equipped with this background information, I turn to my two case studies in Chapter 6.

5.1 The World Bank – A short introduction

Among the MDBs, the World Bank is the oldest and largest. In 1944, the Bretton Woods Conference led to the establishment of the World Bank (then called the International Bank for Reconstruction and Development [IBRD]), the International Monetary Fund (IMF), and the General Agreement on Tariffs and Trade – the predecessor institution of the World Trade Organization (WTO). Since its creation, four additional organizations became part of the contemporary World Bank Group. Next to the IBRD, the World Bank Group is composed of the International Development Association (IDA), the International Finance Corporation (IFC)¹, the Multilateral Investment Guarantee Agency (MIGA)² and the International Centre for Settlement of Investment Disputes (ICSID).³

- 1 The IFC was created in 1955 to extend loans and equity investments to private firms in developing countries. The role of the IFC has become more important throughout the last 20 years.
- 2 MIGA provides political risk insurance to foreign investors to promote foreign direct investment into developing countries.
- 3 ICSID provides facilities for conciliation and arbitration of disputes between governments and private foreign investors.

The term “World Bank” typically refers to the IBRD and IDA (Kapur, 2011). In my work, I stick to this tradition and focus on the World Bank, not the World Bank Group as a whole. In its early days when the IBRD began to operate in 1945 with the signatures of 28 member states, its main task was to address capital deficiencies and thereby stabilize the global economy after World War II (Phillips 2009). As the name of the newly founded institution indicates, the first loans were issued to support reconstruction efforts, initially mainly in Europe. Yet already in the 1950s and 1960s, the IBRD shifted its focus away from Europe toward investments in industry, infrastructure and poverty reduction in developing contexts. To provide interest-free loans and grants to poor countries, IDA was founded in 1960. This second organizational arm supplemented the IBRD, which provides long-term credits at market rates to middle-income and creditworthy low-income countries—an organizational structure that exists to this day. Especially under the leadership of Robert McNamara, poverty reduction became the dominant paradigm in the 1970s. In the course of these efforts, the World Bank had a strong focus on agriculture and rural development. The next major change in the World Bank’s strategy came during the 1980s, when the bank focused on macroeconomic policies and efforts to increase private capital flows. Throughout this period, the World Bank saw privatization of public services (including water, banking, education and health), trade liberalization, deregulation, fiscal and tax policy reforms as well as a “thin” state bureaucracy as the preferred means to spur economic growth globally. Strict conditionalities attached to its *structural adjustment programmes* (SAPs) were designed to enhance compliance among recipient countries. Since these policies were developed in close coordination with the IMF and the U.S. Treasury Department and have hence been referred to as the “Washington Consensus” (Setton, 2006). These policies attracted widespread opposition in many developing countries and to some extent in developed countries as well. By the 1990s, the World Bank faced mounting critique from academia and civil society that due to the adverse social impact of its SAPs. Studies showed the disastrous effects of SAPs on human rights and poverty alleviation (Abouharb & Cingranelli, 2006; Easterly, 2005). While the anticipated economic growth did not take place in most countries, the living-conditions of people of recipient countries worsened due to cuts in the social welfare system. Even where overall economic growth could be observed, there was no “trickle-down” effect to less affluent people and social indicators worsened at the same time overall (Chossudovsky, 1999). Shifting away from the SAPs, the World Bank increasingly identified the lack of institutional capacity as the main obstacle to development and adopted an institutional-economic perspective on their interventions (Burki & Perry, 1998). Moreover, poverty reduction took center stage in the form of Poverty Reduction Support Credits. However, the official end of SAPs did not mean the end of conditionalities (Vetterlein, 2012).

Since the early 1990s and especially since the turn of the millennium the World Bank strengthened its role as a “knowledge bank” offering technical expertise on a range of development issues. Governance, capacity development and institution building became gradually more important. Most recently, the bank expanded its portfolio to address global challenges such as climate change, while the overarching organizational vision remains to combat poverty. Moreover, the bank further strengthened its position as a research organization, knowledge-provider and governance manager. Arguably, the

World Bank's discursive power - its ability to formulate key concepts and approaches guiding other actors in the field of development as well as its ability to govern through ranking and rating countries - has become increasingly relevant in relation to the World Bank's ability to exercise economic power in virtue of its lending volume since the turn of the millennium (King, 2002; Metha, 2001). Today, the IBRD comes close to universal membership with 187 member states. Only Cuba and North Korea (as well as a few city-states such as the Vatican, Monaco, and Andorra) are not members of the World Bank.

5.2 Human Rights and Transparency in World Bank "Safeguards"

The World Bank codifies those standards that guide its action in so-called "operational policies." These policies are internal documents that contain prescriptions, rules, guidelines and procedures that are legally binding to all World Bank staff. Moreover, they are also part of the contracts that the World Bank concludes with its borrowers, thus also obliging the borrowing country (as well as any third party that might be involved) to their adherence. Operational policies are comparable to administrative rules in domestic law and thus part of an evolving global administrative law (Bradlow & Hunter, 2010; Kingsbury et al., 2005). They contain procedural provisions, specifying the procedures to be followed when assessing, designing and implementing projects, technical details as well as policies defining substantive rights and duties.⁴ The latter cover certain human rights, as well as policies referring to the environment such as natural habitat protection and natural resource use). World Bank, scholars and movement representatives commonly refer to these as "safeguards." While safeguards contain human rights provisions, they do not themselves refer to human rights, which is a matter of ongoing dispute between the World Bank, some of its member states and human rights advocacy groups (for an elaboration of this dispute, see both case studies below). Yet, if one is to look for the degree of human rights standards of the World Bank, the safeguards are the place to look for them (Heupel & Hirschmann, 2017; Park, 2010; Rich, 2013). The other category of OPs that matter for human rights accountability are those dealing with transparency. In World Bank terminology, transparency policies are referred to as "public information disclosure policies." In a nutshell, transparency policies specify which project-related information should be made available to different stakeholders (notably, project affected people and/or the global public), and at what stage of the project cycle. The third category of OPs which refers to technical provisions (e.g., providing information to World Bank staff regarding the specific way in which funds are to be disbursed) does not matter for the research interest at hand and will be ignored in the following.

4 Since most operational policies also contain procedural provisions, some (Bradlow and Fourie, 2014) refer to them as "OP&Ps" (Operational Policies and Procedures). For the sake of brevity and clarity, I stick to the more widely used term "OPs."

5.3 Sanctions in cases of non-compliance: The World Bank Inspection Panel

The Inspection Panel is the institutionalized human rights complaints mechanism of the World Bank. While its establishment and specific institutional design is subject of the first case study, I here limit myself to sketching the central features and the evolution of its work in broad terms. Established through a resolution of the World Bank's Board of Directors in 1993 (see Case Study 1), the Inspection Panel became operative in 1994. Its establishment meant a small revolution in international law as it questioned the long-standing tradition that only sovereign states represented by their governments could engage in formal procedures with international organizations (that they had created in the first place). The Inspection Panel in turn provided citizens of sovereign states with legal standing vis-à-vis an international body to challenge that body's adherence to its own human rights obligations directly (Bradlow & Fourie, 2014). In fact, the Inspection Panel managed to empower affected communities and local NGOs. In 2015, roughly 43% of all cases were brought in front of the Inspection Panel by affected communities, while 33% of the cases were filed jointly by communities and local NGOs and 23% of the cases were filed by local NGOs. In contrast, only 1% of the cases were filed on behalf of transnational NGOs representing affected communities (Inspection Panel, 2015). To date, the self-ascribed hallmarks of the Inspection Panel are its independence from management, integrity and impartiality. In terms of personnel, the resolution establishing the Inspection Panel envisages three panel members (of different nationalities), a permanent Secretariat that advises the Inspection Panel, as well as expert consultants providing technical expertise on particular projects. Another constant over the years has been the Inspection Panel process, according to which two or more project-affected people ask for a Panel investigation. A prerequisite is that the World Bank (co-)finances the project in the context of which a safeguards violations allegedly took place. Once the Inspection Panel receives a request for an investigation, World Bank management has the opportunity to respond to the allegations. In a next step, the Inspection Panel screens the request in terms of eligibility. If all conditions are fulfilled and the case is eligible, the Inspection Panel seeks a formal authorization from the Board of Directors to conduct a full investigation. In practice, this authorization is a formality, as the Board of Directors has not yet rejected a Panel recommendation for full investigation. To conduct a full investigation means fieldwork, interviews with project affected people as well as World Bank staff on the ground, public meetings and a review of relevant project documents. After enough information has been acquired, the Inspection Panel writes and sends its final report to the Board of Directors as well as World Bank management. It is management that is then given the chance to respond—in dialogue with governments and project-affected people—by providing an action plan. The goal of such an action plan is to bring the project in compliance with existing safeguards policies. Safeguards that are well known to trigger Panel complaints center on Involuntary Resettlement, Indigenous Peoples rights or the protection of cultural property. Based on both, the Inspection Panel report and the action plan from management, the Board of Directors then decides over the future course of the project. Typically, this includes an adaptation of the project to existing social and environmental risks, improvements

in the design of resettlement plans, enhanced information disclosure, compensations to affected people, the preliminary withhold of further loans, or, in rare and extreme cases, the cancellation of the whole project. Next to the reactive function, the Inspection Panel hopes to create strong incentives for the World Bank and borrowing governments that World Bank policies are not violated in the first place (Bissel, 1997; Fox, 2000). In addition, Hale (2018) found that investigations by the Inspection Panel increased the transparency of World Bank operations considerably, which has in turn led to policy reform (Hale, 2018, p. 154).

5.4 Summary of Case Study Outcomes

I now turn to my case studies. Yet before diving into movement tactics and the causal mechanism through which they may or may not have affected the World Bank's human rights accountability, I report their outcomes upfront. Recall from previous sections that the degree of human rights accountability is a function of binding and precise human rights and transparency policies, delegation to an independent body sanctioning misconduct as well as the scope of such policies and supervisory functions (see Chapter 3.5). According to the operationalization of the outcome, human rights accountability may raise or decline with changes on each dimension. While the first case study centers on the introduction of a quasi-judicial sanctioning body in cases of noncompliance with existing standards (delegation, substance and scope), the second case has the comprehensive review of human rights policies (substance and scope) at heart. Changes in transparency are a relevant, but secondary issue in both cases. All dimensions of human rights accountability add up to an overall value, determining whether a MDB is not accountable at all, possesses limited or comprehensive accountability (see chapter 4.3). As the summary of outcomes in the following table reveals, the World Bank moved from "comprehensive" accountability in 1994 to a "limited" accountability regime in 2016. With this outcome in mind, I now turn to the discussion of my cases and my empirical analysis. Specifically, I test the causal mechanism in light of empirical events in both cases. I show that my first case study (Chapter 6) provides support for the presence of the causal mechanism as outlined in light of the relevant scope conditions. Through a sequenced combination of disruptive and conventional tactics, the movement was able to push the World Bank into the establishment of comprehensive accountability. This first case contrasts with the second case (the World Bank Safeguards Review process from 2011 – 2016), where I find the cause as well as the relevant scope conditions, but not the theorized outcome. As the causal mechanism breaks down between part 2 and part 3, the new safeguards framework accounts for only limited accountability at the World Bank.

