

## 6 Case 1: A Revolution of World Bank Accountability (1988 – 1994)

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The 1970s and 1980s constituted a period of organizational change at the World Bank due to new recruitment practices. Whereas the World Bank used to be a place for economists only until then<sup>1</sup>, sociologists, political scientists and even some anthropologists began to join the organization and introduced a “sociological lens” on poverty that paid attention to social and cultural dimensions (next to a purely economic understanding). Among them, Michael Cernea, a philosopher and social anthropologist who had survived the Holocaust as the child of a Jewish family, became particularly influential. Hired by World Bank President Robert McNamara, Cernea pushed for rigorous sociological research and the recruitment of further social policy specialists (Wade, 1997). Throughout the 1980s and under the lead of Michael Cernea, the World Bank was the first MDB to develop nonbinding guidance notes<sup>2</sup> on a range of human rights-related issues, particularly indigenous people’s rights and resettlement. From their introduction onwards, these first safeguards counted as the gold standard of development finance and other MDBs, bilateral development agencies as well as the private sector began to copy them. At the same time, however, the 1980s also witnessed the limited effect of these new guidelines, as there remained a growing implementation gap between aspiration and practice. In particular, World Bank staff saw the guidelines for what they were; recommendations, not binding imperatives. Even after social and environmental impact assessments became binding<sup>3</sup> in 1989, all adopted provisions merely sought to prevent human rights violations, while the World Bank remained unaccountable where violations happened. Particularly the large-scale Polonoreste Road Project in Brazil<sup>4</sup> and the Narmada Dam project in India throughout the 1980s and 1990s demonstrated the ineffectiveness of existing provisions in the absence of an institutionalized complaints mechanism. My first case study covers the movement mobilization in response to the

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1 as the IMF remains to date: Chwieroth, 2007

2 So-called Operational Manual Statements (OMSs)

3 With the adoption of Operational Directive 4.00 and its Annex A

4 A project that sought to build the “Transamazonica” – a road that ran across the Amazonas rain forest.

latter project and reconstructs the precise causal mechanism that translated differential movement tactics into the adoption of the Board Resolution establishing the World Bank Inspection Panel – the moment from which the World Bank became accountable for the failure to meet its own standards.

## 6.1 Cause: Joint Transnational Social Movement activity

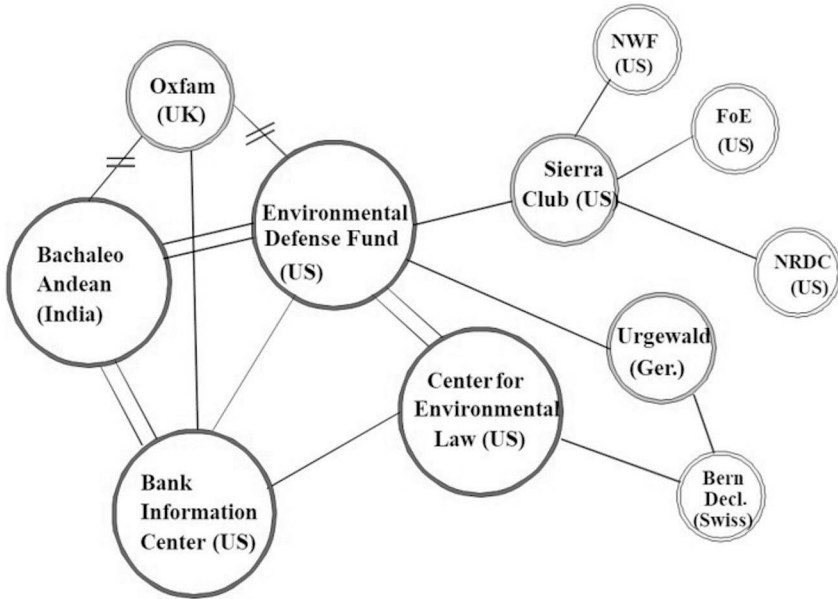
To recall from previous sections (Chapter 4, operationalization), communication about and joint determination of the overriding strategic approach toward the target organization defines the threshold of joint transnational social movement activity. In practical terms, I expected to find traces of routinized communication between local and international movement actors as well as synthesized activities. Chapter 6.1 presents evidence that establishes the different actors in different countries as one transnational social movement acting in concert. Drawing on my empirical material, I am able to show that TSM constituencies were closely connected through regular communication, and that it acted in a coordinated fashion in my first case. In this sub-chapter, I first picture the relations among TSM actors at its peak in 1993. Then, I briefly trace the origins of the TSM and sketch its formation throughout the 1980s.

To provide an overview of TSM connections upfront, the following graph provides an overview of relevant actors in the movement network by the early 1990s, focusing on large social movement organizations (SMOs). The graph is based on Interviews, participant observation during important meetings (e.g., joint strategy meetings that take place once a year; in preparation of Annual Meetings), online initiatives (via Email) and secondary sources. I do not claim to represent a comprehensive list of actors, but rather the most important. The size of the circles indicate the relative importance to the movement as a whole. Moreover, *single* connecting lines represent a relationship; *double* lines a very strong relationship, while *crossed* lines indicate tensions among movement actors.

With this overview in mind, I now turn to a more detailed account of the movement's formation. During the late 1980s, the origins of the movement collaboration can be traced back to a campaign against the World Bank's Narmada Dam project in India. The Narmada River runs through three northwestern Indian states: Gujarat, Madhya Pradesh, and Maharashtra. The idea to build a complex of dams along the river dates back to the time before India's independence, but it was not until 1978 that the Indian government sought to build 30 large dams, 135 medium, and 3,000 smaller dams with the aim to generate irrigation as well as hydroelectric power for the whole region (World Bank, 1995). In 1985, the World Bank opted to support the project through credits and loans totaling \$450 million. In a second application to complete the canal, the World Bank disbursed another \$350 million- roughly 10% of the total cost (Berger & Morse, 1992). The involvement of the World Bank enabled a transnationalization of the protest, as activists working on human rights in the United States and Europe saw Narmada as an important test case for the World Bank's commitment to human rights accountability.

Already by the mid-1980s it became clear that building the dam caused severe and irreparable damage to the environment, as it flooded large amounts of fertile agricul-

Graph 5: The TSM Network



Source: own illustration.

tural land situated close to the river and destroyed the biodiversity of the area. An independent review commissioned by the World Bank found in 1992 that the project had a devastating impact on the environment and biodiversity close to the dam. Moreover, the project violated the social and cultural rights of those affected (Berger and Morse, 1992). Specifically, it came at the cost of displacing 200,000 people. The Narmada River had great symbolic value to the people living at its basin and its river banks are lined with a plentitude of temples and shrines. More importantly for the mobilization of protest, though, was the fact that the agreement between the Indian government and the World Bank implicitly accepted that only those Indians with a legal title to their property would be compensated after resettlement. Among those resettled, the majority were indigenous populations without a title to their land. Hence, in practice, the loan agreement with the World Bank meant that the indigenous communities living around the Narmada River were forced to resettle without compensation<sup>5</sup> (Clark, 2008).

The transnational social movement advocating for greater human rights accountability at MDBs had already formed in the early 1980s. Their common vision was one of decentralized, democratic development that was socially, environmentally, and economically sustainable (NGO campaign as cited in Udall, 1995, p.201). This vision goes beyond one of sustainable development in its democratic impetus. As advocates explain, a concern for personal autonomy has always been essential to this vision. Accordingly,

5 Only later it would become clear that even those with a legal title would not be compensated.

people should have control over their own lives and resources, be guarded from exploitation, and be able to make informed decisions about the development projects that directly affect their lives (L. Udall, personal communication, October 2015). In its latent status, the transnational social movement was as broad as these concerns. The Narmada Dam project mobilized large parts of this coalition, since it involved all of the themes. However, human rights accountability has been at the center, given the long history of human rights violations associated with the project including arbitrary arrests, illegal detentions, and violations of the freedom of assembly and freedom of speech. Hence, human rights advocates have featured most prominently in the movement. Moreover, the deprivation of indigenous populations of their traditional natural surroundings, a surrounding that played a central part to their economic and cultural way of life, meant causing physical and symbolic harm to a vulnerable group. According to previous research (Heupel & Zürn, 2018), this constellation is most likely to generate protest.

For my causal mechanism, it is important to establish that different actors advocating for human rights at the World Bank did not simply act on their own behalf, but that they acted in concert, connecting large organizations with grass-roots activism. In short, it matters that the different activities in fact add up to joint social movement engagement. This took place (albeit with very different technological means than movement activism today): in the early 1980s, the transnational advocacy was coordinated by Oxfam International. John Clark, then head of Oxfam's campaign programme, had visited the Narmada Dam project and from then on sought to bring NGOs from different countries together to form an international Narmada campaign<sup>6</sup>. In the beginning of the campaign, some exchange between Oxfam and local Indian activists, particularly ARCH (an Indian-based NGO funded by Oxfam), existed to share information (Pallas, 2013). They crossed the threshold of concerted, strategic actor hood based on regular communication about and the development of a joint strategy when Lori Udall and Medha Patkar—two highly committed and energetic activists—united forces and established regular channels of communication and coordination in early 1988.

On the ground in India, Medha Parkar was the principle activist. Born in 1954 in Mumbai, Medha Patkar (also referred to as Medha didi [big sister]) is widely recognized as one of India's best known living activists to date. Patkar earned an Master's Degree in Social Work after which she was engaged with several voluntary organizations working in the slums of Mumbai. In the early 1980s, Patkar got involved with the communities living alongside the Narmada Dam. To mobilize against the project, she founded the *Narmada Bachao Andolan* (NBA) as a social movement in 1985 with the support of tribal communities, farmers and fishermen as well as environmentalists and human rights activists. In the mid-1980s, all three Indian states affected by the project saw the formation of protest movements composed of students, smaller environmental NGOs and those facing involuntary resettlement. For instance, 19 villages in Gujarat formed the *Chhatra Yuva Sangharsh Vahini*, a group that focused its activities partly on

6 In 1985, the UN Environmental Programme (UNEP) organized a conference on environment and development. At the conference, John Clark led a workshop on Narmada resettlement, which, according to some observers (e.g., Wade, 2011), marked the birth of the international Narmada Campaign.

the World Bank, and partly on the government of Gujarat to offer better conditions for resettlement. Whereas the *Chhatra Yuva* association sought to reform the conditions of the project, movement constituencies in Madhya Pradesh and Maharashtra were opposed the project as a whole. This fundamental opposition was congruent with Patkar's approach, facilitating close cooperation. In 1989, the two main groups of Madhya Pradesh (the *Narmada Ghati Navnirman Samiti*) and Maharashtra (the *Narmada Ghati Dharangrastha Samiti*), merged with Patkar's *Narmada Bachao Andolan* (NBA). Moreover, Patkar was strongly supported by other activist women of the three states. Among them, the *Narmada Shakti Dal*, a separate women's organization founded by female villagers on March 8, 1988 (International Women's Day), played a particularly significant role. In addition, the NBA benefitted greatly by the support of Baba Amte, an eloquent and widely known social activist who achieved national prominence with the publication of a booklet entitled *Cry O Beloved Narmada* in 1989 (Staffner, 2000). As a result of this strong support base and the widespread popular approval for Patkar's disruptive approach, the NBA took over from ARCHE to lead the Narmada campaign on the ground in India and thus became an essential part of the movement right away (Wade, 2011).

Internationally, Udall became the principal activist and facilitated a coordination hub for the emerging transnational advocacy campaign (personal communication with Bruce Rich, Washington D.C. in June 2015; and L. Udall, November 2016). Udall was a young, highly motivated new recruit of the Washington, D.C.-based Environmental Defense Fund (EDF), working under the mentorship of Bruce Rich – head of the EDF, an environmental lawyer and World Bank expert. For Udall and Rich, this was about something bigger than Narmada and especially bigger than resettlement in the context of a particular project. For them, there were systemic flaws in the World Bank's human rights and environmental performance which needed redress. Case studies of World Bank-financed ecological disasters in Brazil, India, and Indonesia documented by different movement actors throughout the 1980s provided ample evidence of this. Yet, Narmada provided a good political and discursive opportunity to form a transnational coalition and to pressure the World Bank on its social and environmental policies. Udall successfully united local protestors and community leaders with local and international NGOs as well as academics from the most important donor countries to the World Bank under the umbrella of the Narmada Action Committee. Udall's first interlocutor was Meda Patkar, as her know-how of the project developments on the ground, as well as her potential to disrupt Narmada was critical for the overall campaign. In a second step, the Narmada Action Committee served as a platform to coordinate the activity of transnational social movement activism with other stakeholders (Fisher, 1995).

Importantly, the requirement of "joint TSM activity" in my causal mechanism does not exclude the possibility of tensions within the movement. As a matter of fact, there also were disputes within the TSM network in 1980s, as not all actors within the network agreed with Udall's and Patkar's leadership. Their initial disruptive approach led to protests from other movement constituencies. Particularly Udall faced some opposition, as Oxfam did not accept a back seat within the advocacy network in the mid-1980s. In the quarrel for leadership of the TSM strategy, Patkar played a decisive role. Agreeing with Udall's assessment that the World Bank needed fundamental reform, she pressured Oxfam to declare whether it was for or against the Narmada Dam project. Oxfam

refused to do so. In a statement, Oxfam expressed that first, the dam would most likely be built anyway, and that second, Oxfam was in no position to judge whether large dams had a place in Indian development. This response made the break from EDF and NBA very clear to other movement constituencies and Patkar categorized this response as “pro dam” (Wade, 2011). From that point onwards, Oxfam lacked the backing of movement constituencies in India, while it remained an important international NGO with very good contacts to governments at the World Bank’s executive board.

Still, the movement remained largely intact and was able to proceed jointly. It was due to the efforts of the Tuesday Group that Oxfam accepted the EDF leadership without further challenging its basic approach (Bank Information Center members, personal communication, March, 2016). The Tuesday Group was a monthly encounter of environmental and human rights NGOs with the U.S. government, notably Treasury, the State Department and the Environmental Protection Agency (EPA) (see elaboration below). The group, which was chaired by the Bank Information Centre, also included Oxfam and EDF. By 1989, the transnational social movement was formed around a few social movement organizations. At the core of this TSM were Bachalao Andolan in India and the EDF in Washington, D.C. as the two organizations driving the activism, particularly in the beginning. Also at the core was the Center for International Environmental Law (CIEL), since it provided valuable legal expertise that would become especially valuable later on to convince decision-makers inside powerful member states. BIC was the critical NGO holding everything together when EDF focused on the World Bank and conventional inside channels in U.S. Congress. Led by Chad Dobson, a very skilled organizer who had pulled together a peace march in New York with an estimated 800,000 people in 1982 (Keck & Sikkink, 1998, p. 148), BIC became a network service institution connecting U.S.-based NGOs with their European counterparts and, importantly, NGOs from the global south including NBA (C. Dobson, personal communication, June 2015). The BIC also maintained good rapport with Oxfam (London, UK), an organization that continued to be relevant. On a level of importance with Oxfam, Urgewald from Germany and the Sierra Club from the United States were important members of the TSM network. The former coordinated the European NGOs working on World Bank accountability. In particular, the Bern Declaration from Switzerland brought legal expertise to the network and accordingly had some connections to CIEL (D. Hunter, personal communication, June 2015), but also the European chapters of Greenpeace and the World Wildlife Fund (WWF) became occasionally involved in MDB matters in the late 1980s (Keck and Sikkink, 1998, p. 149). The Sierra Club, on the other hand had a large membership base. As an authority at the time on environmental issues, it was also able to mobilize a host of smaller environmental NGOs including the National Wildlife Fund (NWF), Friends of the Earth (FoE) and the National Resource Defence Council (NRDC) – all based in the United States.

## 6.2 Part 1: Disruptive TSM tactics causing MDB Crisis

When Udall and Patkar took over the lead of the Narmada campaign and enabled concerted action, they transformed isolated NGO advocacy into a transnational so-

cial movement and shifted gears from Oxfam's more moderate approach toward a disruptive overall strategy. The evidence indicating that the movement engaged in disruptive tactics stem from newspaper articles reporting disruptive events (primarily demonstrations and hunger strikes), newspaper articles indicating that movements sought to mobilize public opinion against the World Bank, interviews with activists as well as additional traces of movement activity (particularly letters from letter writing campaigns). In part, the shift toward disruptive tactics corresponded with the increasing frustration among those people suffering from the Narmada project on the ground, but also the World Bank bureaucracy's lack of response played a decisive role to opt for a "loud" approach (L. Udall, personal communication, October 2015). Patkar and Udall established an even closer connection throughout these first years of disruptive campaigning. Together, they shifted the issue thematically, from the failure of World Bank project toward the lack of social and environmental accountability at the World Bank more broadly. For Medha Patkar, there was no question that the flaws of the World Bank's engagement in the Narmada dam project were of a systemic nature. As she noted,

"They [the World Bank] should be held responsible, making it necessary for donor country organizations to also question the World Bank through their respective executive directors so that the real issues would be raised" (Patkar, 1995).

Disruptive tactics took two principal expressions, one tackling the World Bank in India in the context of the Narmada project, and one tackling the World Bank's Washington, D.C. headquarters. In India, Patkar was prepared to engage in outside tactics to increase the NBA leverage, even to put her own health and safety at risk. In November, Patkar organized a demonstration over several days with activists, scholars, and journalists through the villages along the Narmada River, holding workshops and public meetings along the way. This march was followed by a series of local rallies, decentralized letter writing campaigns, and press reports, aimed to increase awareness for the fundamental opposition of NBA to the project throughout India (Khagram, 2004). The year 1989 was characterized by a series of movement successes, primarily due to ongoing disruption on behalf of the transnational movement coalition. To repress the mounting protest, the state government of Gujarat invoked the *Official Secrets Act* in 12 villages for almost five months. Shortly after, the movement demonstrated against the act, which was a legacy of British colonial rule and allowed the government to take protestors into custody without further explanation. The Indian government took 500 of the demonstrators into custody, among them Medha Patkar. The immediate response was outrage by fellow demonstrators, EDF, Indian and international media, leading to Patkar being released the subsequent day (Crawford, 2007). Referring to the Gandhian tradition of nonviolence and noncooperation with unjust power structures, Patkar followed up on the protest and organized a series of demonstrations on land as well as inside the Narmada River declaring that "we will drown but we will not move." (as cited in Clark, 2003, p. 35). The World Bank remained silent. According to contemporary witnesses, so-called "noneconomic criteria" such as indigenous people's rights, resettlement or environmental protection, did not enjoy a great deal of support among Management and the Operations department. In September 1989, Baba Amte led a 60,000-person anti-

dam NBA rally in Harsud—a town of 20,000 people in Madhya Pradesh that faced submersion.

In Washington, D.C., Lori Udall used the escalation and new information she had acquired from NBA and so the transnational coalition was able to get balls rolling on a number of fronts also internationally, particularly in Germany, Switzerland and The Netherlands (D. Hunter, personal communication, June 2015). To this aim, Udall formed the Narmada Action Committee—a committee composed of movements from World Bank “Part I countries”, those countries with the largest shares. Secondly, Udall prepared menus of action individual movement constituencies such as Urgewald or the Bern Declaration could take in their own respective countries. This manual stipulated outside tactics in the form of letter writing campaigns and media events targeting legislators and World Bank EDs (Fox & Brown, 1998). The focus of her energy at the time was on a huge letter writing campaign from all Part I countries. In 1989, World Bank President Barber Conable received a thousand letters every day from the UK alone. At the Tuesday Group, a group composed of Washington, D.C.-based NGOs that organized strategy meetings on every first Tuesday of a month, the Narmada issue rapidly gained significance and became a regular topic on the agenda. Members of the group recognized the enormous potential this case had to force reform at the World Bank. Unlike previous projects where the World Bank faced allegations of human rights violations, the Narmada Dam project was funded through money of the International Development Association (IDA), not the International Bank for Reconstruction and Development (IBRD). There was consensus among D.C.-based NGOs that the influence of the U.S. Congress was bigger toward IDA than with regard to the IBRD (L. Udall, personal communication, October 2015).

On October 7, 1989, the *New York Times* published an article on the ongoing criticism. As a source of evidence on the strategy of social movements, the article by *The New York Times* provides an important piece of additional information, as compared to the interview accounts used so far, the uniqueness of the information is rather high. Part 1a of the mechanism predicts that the movement engages in disruptive activity, while Part 1b predicts that this activity causes some trouble at the World Bank. If an article in a quality newspaper like the *New York Times* reported that TSM engaged in demonstrations and hunger strikes, this empirical fact overlaps with the proposition that disruption took place, and with the proposition that it reached a certain threshold of public attention indicating pressure to the IO. At the same time, the proposition does not overlap with alternative theories (i.e., theories predicting no disruptive TSM activity). Thus, an article in a quality newspaper like *The New York Times* provides a “smoking gun test.”

While Udall was increasingly absorbed with the coordination of the campaign toward World Bank management and the Board of Executive Directors, BIC established very good connections with NBA as well as kept track of the Narmada project behind the scenes. Also, it was thanks to the BIC and the Tuesday Group that Udall and Oxfam’s John Clark, who would not speak to each other directly, maintained an indirect channel of communication. The fact that U.S., European, and Indian activists were at the center of the movement greatly facilitated communication, joint strategizing and the

rapid flow of information, given that all involved spoke English<sup>7</sup> (C. Dobson, personal communication, June 2015).

The net of indirect pressure on decision-makers at the World Bank was woven ever closer to the center of power. While World Bank management at large sought counter mobilize by “avoidance”, ignoring the protest demands to the extent possible (Khagram, 2004), the World Bank’s Senior Vice President for Operations Moeen Qureshi showed some reaction by sending a “resettlement mission” to India that also met with the NBA. This mission presents a clear indication that the World Bank bureaucracy was increasingly concerned about its reputation and felt it should show a sign of goodwill. However, the recommendations of this mission were ignored. In the late 1980s, the World Bank’s counter mobilization was relatively weak. To recall from the analytical framework section, counter mobilization in the form of avoidance is an important scope condition for movements to effect political and institutional change. The more effective such counter mobilization by avoidance, the more difficult it is to disrupt. In a response to the letters received by activists from around the world, then World Bank President Barber Conable replied personally. This unusual move by a World Bank President again shows that the institution was sincerely concerned. Yet, in his response, Conable simply denied considerable problems with regard to the India project, as well as with the World Bank’s human rights accountability more generally. Conable wrote:

“I appreciate your continuing concern, and can assure you that my commitment to environmental protection is shared by all of the senior managers in the World Bank. We are indeed proud of the achievements already in place, and I agree that we have done too little to publicise the good side of the Bank’s efforts.” (Conable, 1989)

With the letter, Conable sent a 14 page *Note on Narmada projects and World Bank involvement* which primarily focused on the World Bank’s advancements in its environmental and resettlement policies. Moreover, he issued strict instructions for all World Bank staff to avoid any further contact with NGOs. The lack of an institutionalized oversight enabled World Bank staff to capitalize on the ambiguity in existing social and environmental policies to a maximum degree. Even though in practice, this often meant to ignore these policies all together, the World Bank President and management had no interest in a more fierce accountability framework (Wade, 2011).

Startled by the lack of response on behalf of the World Bank in the face of severe violations of its own human rights requirements, the transnational movement also used conventional means of influencing governments within the overall disruptive approach. Notably, Lori Udall and Bruce Rich began to establish first contacts with parliamentarians of liberal democratic states. The close relation between EDF and NBA in India were crucial, since Medha Patkar provided frequently updated information concerning the developments in Narmada which were then shared with the wider network. For instance, the German Green Party launched several minor interpellations to the

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7 Moreover, the minimum conditions for a transnational movement to form – particularly a lack of censorship and repression of activists – were present in all geographic locations. According to some observers, Narmada could not have triggered and maintained the transnational social movement to the same extent if it had been in China, Indonesia or Turkey (Wade, 2011, p. 59).

government concerning developments in Narmada and the World Bank's compliance with international human rights, facilitated by the close contact from Patkar to EDF and from Bruce Rich (EDF) to Ludgar Vollmer, then a member of parliament for the German Green Party<sup>8</sup> (B. Rich, personal communication, June 2015). More importantly than parliamentary inquiries in Europe, however, was the advocacy by the Environmental Defense Fund (EDF) toward U.S. Congressmen, who accepted a first parliamentary hearing on behalf of Narmada activists in May 1988 to gather more information on the project. In 1989, James Scheuer, a Democrat from New York and Chairman of the U.S. House of Representatives Subcommittee on Natural Resources, Agricultural Research, and Environment agreed to Udall's initiative to hold another hearing on the World Bank's support for the Narmada project. Next to Udall and her EDF colleague Peter Miller, three Indian activists were invited to speak: Patkar from NBA, the human rights lawyer Girish Patel, as well as economist Vijay Paranjpye. As the head of the movement constituency in India, Patkar spoke for more than one hour. From the U.S. government, Frank Vukmanic, head of the Office of Multilateral Development Banks in the U.S. Treasury, testified. The movement asked James Scheuer to invite representatives from the World Bank, too. Scheuer did and even offered the institution to testify "off the record." Yet, World Bank President Conable refused (Udall, 1995).

The testimony in front of the U.S. Congress was crucial as a catalyst for later concern among governments in Part I countries. Yet, despite a letter by six members of Congress to Conable expressing their concern, Congress voted to fund the World Bank's plea for the ninth IDA replenishment. From the perspective of World Bank management, this congressional act meant good news, as the institution achieved to secure its desired amount of funding for the next three years without making any concessions regarding policy or institutional reform. In the act allowing further World Bank funding, TSM achieved an important stage win though, as Congress instructed the U.S. ED to lobby for increased access to information (already at the stage of project planning) for NGOs and those affected by Bank projects (U.S. Congress, 1990).

At the end of 1989, the World Bank, as well as most borrowing countries on the Board of Directors were strictly opposed to the idea of introducing direct human rights accountability at the World Bank. On the other hand, some European EDs (notably the Dutch and German), the Japanese Diet and U.S. Congress were sympathetic to the idea of increasing World Bank accountability toward the people it purported to serve. Yet, the term "human rights" was unheard of in the World Bank, as human rights language was seen to contradict its "nonpolitical mandate" (BIC representative, personal communication, April 2017). Moreover, the TSM demand for direct accountability went beyond established doctrine and practice of international law, as no IO before had been directly accountable to individuals. The sovereignty costs of the movement demand were relatively high, as states would have to agree that they would resign from their roles as intermediaries between the MDB and their population in cases of human rights violations by MDB (co-)funded projects. Thus, in late 1989, two core features of the demand

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8 This Patkar-Rich-Vollmer-link was a success-model since 1985, when the Green Party launched its first inquiries on World Bank accountability issues (Ludgar Vollmer was Speaker on Development for the Green Party from 1985 onwards (with Uschi Eid), "Kleine Anfrage," 1985).

for direct human rights accountability transgressed what even Part I countries (i.e., the United States, Japan, France, United Kingdom, and Germany) could support. At the same time, the issue at stake – the demand for direct human rights accountability among MDBs – possessed several features that were conducive to a successful use of disruptive movement tactics. First, the movement criticized a specific set of policies (or rather the lack thereof) as well as the lacking institutional infrastructure to file complaints on grounds of human rights violations. Secondly, while the World Bank had always avoided the use of the term “human rights,” there was widespread agreement in the development community (including large parts of the World Bank), that development describes a process toward a better life. Such a “better” life is hardly possible if human rights are violated (World Bank staff, personal communication, June 2015). Accountability, on the other hand, is an equally constitutive value for a multilateral development bank, which it seeks to cultivate and promote (World Bank, 1994). Thus, the issue of human rights accountability does not puncture, but closely touches upon the core of the identity of the World Bank. The short causal chain between the World Bank’s involvement in the Narmada Dam project in India and the human rights violations inflicted, combined with the fact that those suffering physical as well as spiritual harm were a vulnerable group of people (Indian farmers and villagers) further added to the power of movement demands in virtue of the issue at stake.

In 1990, the transnational coalition managed to keep pressure at high levels, using the Narmada Dam project and the World Bank’s lack of response as a hook to catalyze mounting international critique. Bruce Rich, a human rights and environmental lawyer and head of the Environmental Defense Fund, published a widely read article in the *World Policy Journal* entitled “The Emperor’s New Clothes: The World Bank and Environmental Reform” (1990) which gave the World Bank a ruinous testimonial. In the article, Rich argued that there was growing evidence for the World Bank’s violation of its own standards and that, despite minor adjustments (i.e., an increase in technical and environmental experts), it essentially continued to operate without meaningful accountability mechanisms in place.

At this point, it is important to note that the transnational social movement coalition was able to strike the keys of disruptive tactics due to its combination of organizational resources with expert/moral authority – two important scope conditions for the effective use of disruptive tactics. On the one hand, the movement had very good connections to established supporting networks as well as large social movement organizations. Notably, the Sierra Club, the oldest and largest nonprofit, grassroots environmental organization in the world with around 600,000 members in 1990 (Lester, 1995), supported the movement’s disruptive tactics that built on the power of numbers (e.g., letter writing campaigns). At the same time, key movement representatives like Lori Udall, Bruce Rich and David Hunter pulled the strings drawing on their epistemic authority as legal scholars. In particular, the latter two supplemented their movement activism with publications in academic journals, thereby underlining their credentials as “experts.”

After Congress had approved IDA funding to the World Bank, the TSM opted to target Japan, the second major shareholder that was also directly involved in the Narmada Dam project financially through the Overseas Economic Cooperation Fund.” Following

the same line of argumentation that Bruce Rich had put forward in his article, Friends of the Earth of Japan organized an international symposium with over 500 activists (mainly from Japan and India), journalists, and academics discussing World Bank accountability standards in April of 1990. It was the first symposium of its sort in Japan addressing the adverse effects of Japanese involvement in the MDBs. Due to its novelty and scale, the symposium attracted major media attention and reports appeared on three Japanese TV stations. This media attention in turn allowed movement members to access Japanese politicians. In an Open Letter to Barber Conable, 22 Japanese parliamentarians demanded a fundamental revision of the project, or else, its cancellation (Fox & Brown, 1998). Oxfam International opted to support the transnational campaign with a report on resettlement in Narmada, stating that at least 70% of the people facing resettlement due to the Narmada project were members of the scheduled tribes. According to the report:

“The condition of the Tribal communities...is the worst. These communities have become completely helpless in the face of the omnipresent system on account of the “criminalization” of their social and economic system itself, denial of their rights over resources and non-recognition of their traditional self-governing systems.” (Oxfam, 1990)

Oxfam handed the report over to the World Bank's India country office<sup>9</sup>. In its own report to the EDs, the country office cited only the few positive remarks of Oxfam's report, indicating some progress in the state of Gujarat and rejecting allegations of any negative impact. Recall from above (chapter 3.3 and 4.3) that defiance in terms of an open rejection of allegations is a form of *counter mobilization* by the World Bank bureaucracy. However, defiance was unsuccessful in mitigating pressures this time. As Oxfam got notice of this massive distortion, it opted to follow the disruptive approach of EDF and sent a fierce letter to all executive directors, indicating step by step how the World Bank's own management had tried to cheat its oversight body – the Board (Wade, 2011). To assess the impact of Oxfam's involvement, we need to look at the importance of moral authority as a scope condition for successful disruption. In fact, all major European and U.S.-based NGOs, as well as Indian constituencies involved in the overall movement were ascribed with moral authority by Western governments and the wider public. Still, Oxfam stands out. In early 1990, Oxfam was not only the largest development NGO in the UK (with a total income of 70 million British Pounds yearly), it also was an NGO with “an enviable international reputation” (Burnell, 1992, p. 312). According to Burnell, “the ‘mighty Oxfam’ has even been cited in Britain's House of Lords [...] as evidence for the proposition that the British charitable movement is one of the proudest cultural jewels that the country brings to the European table” (Burnell, 1992, p. 312). In addition to Oxfam, Indian-based movement constituencies enjoyed high moral standing among European and U.S. legislators because they were those suffering the harm. While the World Bank opted to remain silent in reaction to Oxfam's findings, Wade

9 Though not in Washington D.C., the country offices are part of the World Bank's bureaucracy as they are headed and administered by World Bank permanent staff.

argues that it was well noticed by decision-makers in member states (Wade, 2011). Repeating the pattern from before, the movement's rhetorical confrontation toward World Bank headquarters came along with ongoing disruptive tactics in the context of the Bank's most problematic project at the time – Narmada. In May 1990, the *Narmada Bachalao Andean* opted to travel to New Delhi to confront then Prime Minister Singh. Patkar convened a meeting at the Prime Minister's residence. Yet, what seemed like a conventional tactic at first (background negotiations with decision-makers in private meetings) soon turned into a confrontational, disruptive event, as the NBA opted for a five-day sit-in (*dharna*) instead of following the Prime Minister's request to leave his residence. Toward the end of the year, the scissors of Indian-D.C. advocacy plunged the World Bank into deeper crisis. Medha Patkar and Baba Amte together organized a "Narmada People's Progress Struggle March" (*Narmada Jan Vikas Sangharsh Yatra*). In concrete terms, 5,000 protestors marched over 100 kilometers from the state of Madhya Pradesh to Gujarat with the aim to occupy the dam site (Udall, as cited in Clark, 2003). After an escalation between government and protestors, the Gujarat police managed to stop the "long march." What followed was a 30-day standoff between protestors and police. In the meanwhile and together with six other protestors, Patkar began a hunger strike. This was a crisis situation, as Patkar seemed determined. What could stop her? Patkar's demand was a review of the World Bank's accountability architecture and the entire project in particular (Udall, 1995). The World Bank would not agree to these demands. As Patkar's health worsened, Oxfam's John Clark and EDF's Lori Udall jointly pressured the operational vice president, Moeen Qureshi, to accept an independent review of the entire project. Eventually, Qureshi gave in and Patkar called off her fast after 26 days (Udall, 1998).

Recall that my causal mechanism requires a situation of crisis, a crisis of the target institution that provides leverage to suggestions for radical change among key decision-makers. Patkar's long march, her hunger strike, and the World Bank's concession that a comprehensive review of the Narmada project was necessary in light of its own failures signified a turning point. From that point onwards, the World Bank increasingly acknowledged that the mounting pressure put its own credibility at stake. Yet, in contrast to natural disasters, the death of a relative or sudden unemployment all represent immediate crises events, the realization that the World Bank was in crisis proceeded over a couple of months. The movement thus continued its disruptive approach. Just after the World Bank had declared its willingness to face its accountability shortcomings, Baba Amte opted to stick to the NBA's established and proven means of disruption and began a "*dharna* [sit-in] unto death" on January 5<sup>th</sup> in 1991. Moreover, by announcing a "noncooperation movement," the NBA expanded its repertoire of nonviolent disruption by campaigning against the payment of taxes. Also, the NBA confronted World Bank management during field visits, shouting at them "*Vikas Chahiye, vinash nahin!*" ("We want development, not destruction") and "*Koi nahi hatega, bandh nahi banega!*" ("No one will move, the dam will not be built"; Fisher, 1995, p. 3). At times, it also left the path of nonviolent Ghandian methods, when the movement denied government officials, except teachers and doctors, entry into villages along the Narmada valley, provoking clashes with security forces (Staffner, 2000). In line with the assumption on the use of disruptive tactics (Button, 1978), these sit-ins, blockades, and even the occasional incidences

of violence on behalf of the Indian TSM-constituencies shocked the World Bank (as well as the Indian government), but were not so harsh to threaten support in the eyes of the wider public (Wade, 2011).

By mid-1991, Conable faced ongoing nonviolent resistance in India and growing public pressure as well as legislative action from the United States and Japan, as well as important European donors. Consequently, the World Bank demonstrated deepened concern over the unfolding of events. The unequivocal evidence for this is that President Conable followed up on Moeen Qureshi's commitment in June of 1991 and announced the establishment of a strong and independent review panel, headed by Bradford Morse (former head of UNDP). As Morse was in poor health, the World Bank bureaucracy still needed to find someone to do the real work. Udall pushed for Thomas Berger – a Canadian lawyer and advocate of indigenous group's rights – as the principal investigator. Even though Berger was potentially threatening to the World Bank due to his independence and his strong stance on indigenous rights, Conable accepted the choice. This meant another important stage win for the TSM in the process of clearing the way for more substantial reform. The fact that the independent review happened and the fact that it was well-staffed meant both for the TSM, an acknowledgement of failures by the bank *and* a source of additional pressure. Morse and Berger were sympathetic to the movement's concerns and invited their key representatives for a briefing of all members of the review mission. These members came from outside the World Bank and did not know much about the institution's operations or accountability architecture. Thomas Berger himself even spent a whole day at Oxfam with John Clark and other TSM activists (Wade, 2011). The TSM persuaded the review panel to ascertain its independence from the World Bank by insisting upon access to all World Bank files, an independent budget, as well as an independent publication of the results, without Bank editing<sup>10</sup> (L. Udall, personal communication, October 2015). The independent review commission started its work in September 1991.

In a fortunate coincidence for the TSM that turned into considerable support for movement demands from the organizational environment was the UN Conference on Environment and Development (UNCED), which took place in Rio de Janeiro in early June of 1992. This "Rio Earth Summit" (as the summit has been subsequently referred to) was the follow-up to the Stockholm Conference in 1972 and provided a welcome discursive opportunity to the TSM engagement (D. Hunter, personal correspondence, June 2015). The Rio Earth Summit was of a quality that it heightened the visibility of TSM concerns and provided a unique source of resonance for their specific claims. To begin with, the Rio Earth Summit was an unprecedented event in terms of attention and the scope of its agenda. Notably, the presence of all major development banks and around 2,400 environmental and development NGOs, in addition to 171 governments

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10 While the narrow term of references pushed for by DC- and London-based TSM (the review was limited to resettlement and environmental accountability) initially produced some tension with the Indian part of the TSM hoping for a more fundamental review of World Bank engagement in India, the Indian government was strictly opposed to an independent review. Lori Udall was able to convince Patkar and Amte that the review mission was a chance for the TSM cause and facilitated a number of encounters between the review team and Indian-based TSM in the upcoming months.

(among them 108 at the level of head of state) meant that main cooperating partners of the World Bank were present. With the other MDBs, the World Bank shared a common identity. It also shared a common purpose with the development NGOs and, in fact, the Rio Summit as a whole (i.e., sustainable development). The World Bank had been a key IO in preparing the Rio Earth Summit, but also became a target of critique by developing countries. For instance, the proposal to task the Global Environmental Facility (GEF) with oversight over the funding and implementation of Agenda 21<sup>11</sup> activities was met with fierce resistance from several governments due to the close connection of GEF to the World Bank in conjunction with the poor environmental performance of the latter (UN, 1992). Yet, despite criticism of the World Bank during the Rio negotiations, the World Bank was still assigned major responsibilities to implement Agenda 21 (UN, 1992). The conference resulted in a “Rio Declaration on Environment and Development,” a new “UN Framework Convention on Climate Change” and the “Agenda 21”. Moreover, the Agenda 21 called for much greater inclusion of NGO’s to guarantee accountability in development. The Agenda 21 also emphasized the inherent link between environmental protection and human rights. The final documents of the Rio Earth Summit and Agenda 21 pass a doubly decisive test proving support for TSM demands from the World Bank’s organizational environment. According to the UN’s own judgement, by making this link explicit the Earth Summit set the tone for subsequent UN conferences. For instance, the World Conference on Human Rights, which was held in Vienna in 1993, emphasized the human right to a healthy environment and development. These two rights had been a matter of controversy until Rio (UN, 1992). In sum, the Rio Earth Summit provided due to its emphasis on the link between environmental protection and human rights, its critique of the World Bank as well as its call for greater NGO inclusion in development, a welcome discursive opportunity for the ongoing TSM human rights advocacy. The participation of actors from the World Bank’s organizational environment and their support for enhanced human rights accountability in their talk (i.e., press statements) and actions (i.e., the final Rio Declaration) meant enhanced support for movement demands from the World Bank’s organizational environment. At the same time, it is important to note that later TSM demands for an independent accountability mechanism at the World Bank that would provide project affected people with direct legal standing toward the MDB did not receive support from the World Bank’s organizational environment. Since I did not find any traces of evidence for organizations supporting, in talk or action, the establishment of a citizen-driven accountability mechanism, this fails the hoop test (necessary to confirm the hypothesis)<sup>12</sup> and thus disconfirms the presence

11 The Agenda 21 was a forward looking, nonbinding sustainable development action plan for all UN member states – the outcome document of the Rio Earth Summit.

12 To recall from the Operationalization section above, the tests to evaluate evidence are defined as follows: **Straw-in-the-wind test** (low uniqueness, low certainty). This is the weakest of the four tests, neither necessary nor sufficient to confirm a hypothesis. **Hoop test** (high certainty: necessary to confirm hypothesis). If the hypothesis fails the hoop test, this disconfirms the hypothesized mechanism. **Smoking gun test** (high uniqueness: sufficient to confirm hypothesis). If the causal mechanism does not leave traces of a smoking gun, this does not decrease our confidence in the CM (due to the high uniqueness). **Doubly decisive test** (high certainty, high uniqueness). This is the most demanding test, both necessary and sufficient to confirm a hypothesis.

of organizational support on this dimension. At the time, there was simply no MDB, even no IO that guaranteed the right to invoke organizational human rights policies to communities<sup>13</sup>. The Rio Earth Summit went until Sunday, the 14<sup>th</sup> of June. In parallel to the Rio Summit, the human rights NGO Asia Watch sent a fact-finding mission to the Narmada Valley. The final report was published only three days after the summit's end on 17<sup>th</sup> of June, stating that movement activists who participated in demonstrations against the project had been

“subjected to arbitrary arrests, illegal detentions, beatings and other forms of physical abuse. These abuses appear to be part of an increasingly repressive campaign by the state governments involved to prevent the groups organizing support for the protests [...] and disseminating information about the environmental and social consequences of the project.” (Grossman, 1992, p. 1)

Even more troublesome for the World Bank, and only one day after, on Thursday the 18<sup>th</sup> of June 1992, Bradford Morse and Thomas Berger published their report without prior approval by the Board of Directors. Morse and Berger *did* inform the board shortly before public release, but provided no chance to view the report beforehand. The 363-page long report repeated the findings of Asia Watch and essentially confirmed the view of Udall, BIC, Clark, Patkar, and Baba Amte that the World Bank was in serious violation of its own policies and that no mechanism existed to remedy these violations (Schlemmer-Schulte, 1999). It contained detailed description of the World Bank's failure to comply with its own environmental assessment and indigenous people's policies and criticized the standardized practice of involuntary resettlement without adequate compensation. The report also made clear that these shortcomings were of a structural nature (Morse & Berger, 1992). In short, the report by Asia Watch, and particularly that by Morse and Berger painted a dark picture of the World Bank's human rights and environmental impact in India at a point in time when public attention was still on the institution thanks to the Rio Summit. As Udall later recalled,

“It is ironic that within the same week in 1992, the World Bank emerged, on one hand, from an international forum as a global environmental savior, and, on another hand, from an intensive ten-month review as an institution incapable of addressing environmental impacts in its own projects.” (Udall, 1995, p. 201)

Different from the World Bank's management, the TSM was informed about the upcoming publication of the Morse report and had prepared for the publication by launching a series of reports across the US, Europe and the Scandinavian countries already toward the end of the Rio Earth Summit. Most notably, the New York Times published seven articles on the World Bank's human rights performance in a row. One of the articles referred to the World Bank as “one of the most unaccountable institutions on the planet” (Crossette, 1992, p. 8). On June 23, *The New York Times* published an article sympathetic to the movement and its goals entitled “Movement Builds to Fight Harmful Projects in Poor Nations,” criticizing the World Bank's lack of response to human

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13 Individuals did enjoy legal standing in the context of several human rights treaties. However, these international treaties are not international organizations.

rights demands. The articles places great hopes in the TSM: “In a broadening movement that could change the way poor nations develop, environmentalists and human rights groups are joining” (NYT, 1992, p. 4, cited in Payne, 1998). In parallel to these newspaper articles, Human Rights Watch and the National Resource Defense Council (NRDC) published a report entitled *Defending the Earth* – a disturbing report which covered the human rights violations of Indian activists who engaged in civil disobedience toward the World Bank. According to this report, the World Bank’s campaign of denial

“which continues to this day, has resulted in widespread abuses against activists and villagers in the affected area. According to Asia Watch sources, since mid-1991 more than 1,000 people have been detained for periods ranging from several days to several weeks.” (Human Rights Watch [HRW] and NRDC, 1992, p. 46)

Due to the very short notice, the World Bank management seemed hit by surprise as it took five days until their first response. The official Press Statement on June 23<sup>rd</sup> indicated management’s nervousness as it acknowledged flaws in resettlement performance. At the same time, management decided to continue funding the project without fundamental adjustment and to remain silent about the issue of structural reform to enhance direct accountability (World Bank, 1992). Despite offers by management to negotiate with leaders of the transnational coalition, the movement continued with its scandalizing strategy as the World Bank’s management did not show comprehension beyond rhetorical maneuvers (B. Rich, personal communication, June 2015). During monsoon season, EDF and the BIC formed the Narmada International Human Rights Panel with the purpose of providing for permanent, independent monitoring of human rights violations in the Narmada Valley. Among the multidisciplinary panel members were representatives from the Lawyers Committee on Human Rights, a journalist, a sociologist, an anthropologist, and economists (Udall, 1995). The panelists published a series of reports documenting human rights violations in the context of the project. These reports did not yield immediate results, as the World Bank referred to its “non-political” mandate and the sole responsibility for human rights compliance lying with states. Against this background, the reports contributed to the growing idea that the World Bank should be held accountable for human rights violations that resulted from failures to adhere to its own safeguards.

In September of 1992, during the World Bank’s Annual Meeting, the BIC and EDF coordinated the publication of an open letter to the new World Bank president Lewis T. Preston<sup>14</sup>. The letter was signed by 250 movement organizations from 37 countries covering a full page in each the *Financial Times*, the *New York Time* and the *Washington Post*. The letter to Preston highlighted the problems with the Narmada project. It highlighted that these problems were more the rule than the exception, the need for institutional reform, and it demanded that the World Bank withdraw from the Narmada immediately. In case of noncompliance with these demands, the TSM coalition threatened Preston that “NGOs and activists would put their weight behind a campaign to cut off funding to the Bank” (Wade, 2011). The “dot of the I” of the media campaign in late 1992 was a

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14 Lewis Preston was elected in autumn 1991 as World Bank President, taking office from his predecessor Barbar Conable.

one page advertisement in the *New York Times* entitled “Your Tax Money – Funding Yet another World Bank disaster” (1992). With this onepager, the movement underscored its willingness to go against the World Bank as an institution in case it would not respond to the demands. The article constitutes a smoking gun for the TSM move from critique of the specific project (Narmada) to a more general critique of the organization as a whole (see “Operationalization” section). The TSM media efforts accompanied with ongoing demonstration in the Narmada valley yielded tangible results. World Bank executive directors (EDs) from the United States, Europe and Japan – at the time holding the vast majority of the voting-power – were increasingly worried about the World Bank’s reputation.

Notwithstanding the mounting critique and despite severe worries that the legitimacy of the institution was at stake, the Board of Directors voted to continue World Bank investment in the Narmada dam project on 27<sup>th</sup> of October, 1992 (Wade, 2011). Yet, different from previous points of mounting critique, the World Bank sincerely considered change. Perhaps more importantly, President Lewis Preston became increasingly skeptical not only of the World Bank’s engagement in India, but also of its entire portfolio. A smoking gun, that is, an unambiguous indication of this increasing doubt is the fact that Preston asked Willi Wapenhans to do an internal review of the Bank’s entire portfolio regarding its human rights performance already in the midst of preparations for the Morse Commission – the official acknowledgment of the World Bank to review Narmada. Wapenhans was not only close to Preston, he also knew the World Bank inside out, as he was its former Vice President. As Wapenhans later recalls, Preston simply wanted to get a sense of what was really going on as the presidential office was much more concerned about the World Bank’s reputation than it would acknowledge in public (Wapenhans, Oral History Interview, 1993). The Wapenhans Report was delivered to the Board on 3<sup>rd</sup> of November 1992. As with the Morse report, the Wapenhans report was leaked to TSM before official publication (Park, 2010, p. 80). In the report, Wapenhans concluded that 37.5 % of World Bank projects did not comply with the bank’s own social and environmental standards in a satisfactory way (World Bank, 1992). According to the report, the World Bank’s “portfolio is under pressure. This pressure is not temporary, it is attributable to deep-rooted problems which must be diagnosed and resolved. The cost of tolerating continued poor performance is high not for the Bank [sic], but for its borrowers” (Wapenhans, 1992, p. ii).

Because of its careful analysis of an internal “approval culture” (Shihata, 1994, p.2), pressure to meet lending targets toward the end of the fiscal year and corresponding career advancements based on large scale infrastructure projects, the Wapenhans Report has been the best known source documenting the perverse incentive structures among World Bank staff and management (Clark, 2003). Moreover, it underlined the claim by the transnational social movement that the policy violations identified in the Morse Report had structural roots in the way the World Bank functioned (Wapenhans, 1992).

Increasingly, important World Bank member states began to worry about the organizations performance and legitimacy. A hoop test for this is that in response to the Wapenhans Report, a series of high-level meetings took place between executive directors (EDs) and World Bank management toward the end of 1992. From the side

of EDs, Evelyn Herfkens (Netherlands), Jorunn Maehlum (Scandinavia), Patrick Coady (United State) and Fritz Fischer (Germany) were particularly concerned. World Bank President Lewis Preston came out acknowledging that “nobody was reading the auditing requirements because they were too complex” (Preston, World Bank, Oral History). In November of 1992, donor countries at the World Bank decided to demand an action plan from World Bank management through the Board of Directors. The demand for an Action Plan – a smoking gun for the increasing worries of World Bank member states – was supposed to make specific recommendations addressing institutional and policy failures. As the previous paragraphs indicate, the realization among member states that the World Bank was in crisis did not come at once as a natural disaster suddenly unfolds. Instead, it was the accumulation of multiple factors: (a) disruptive tactics, including violent and nonviolent tactics such as the hunger strikes, sit-ins and demonstrations against the Narmada project in India; (b) widespread media coverage scandalizing World Bank failures in combination with its lack of accountability, (c) the TSM-informed Morse report, (d) the internal report confirming several shortcomings and (e) the ongoing pressure mobilized by Washington D.C.-based movement constituencies. Perhaps most importantly, it was also thanks to the World Bank’s attempts to cover up misconduct and misrepresent facts, that member states gradually became highly suspicious of the sincerity with which the Bank was handling very serious allegations. It was this accumulation which led to the tipping point at which important World Bank member states and their EDs were alarmed to an extent that they perceived a crisis.

### 6.3 Part 2: Conventional TSM tactics through the state channel

From the perspective of the transnational social movement, the year 1993 went off differently from the previous years. The World Bank Board of Directors and Management had admitted severe shortcoming in the World Bank’s accountability architecture and important decision-makers on the Board of Directors —above all the United States—had expressed their deep concern. Among D.C.-based activists, there was a clear sense that reform was in reach (Interviews with David Hunter; Chad Dobson). It was at that time that several key actors in the TSM shifted their energy to more conventional inside tactics. Importantly, the TSM opted to shift the arena of contention, from direct engagement with the World Bank toward engagement via the state channel. Though the World Bank showed some recognition for the presence of structural accountability deficits, its management and its president had repeatedly confirmed their reluctance to tackle deep institutional reform. When pressure for reform rose in early 1993, it was clear to World Bank staff that a reform of this approach was unavoidable. Still, the TSM had no doubt that staff and management would aim for the least transformative option available (D. Hunter, personal communication, June 2015). Thus, the transnational social movement opted to focus on a different arena of contention: engagement via World Bank member states (B. Rich, personal communication, June 2015; L Udall, personal communication, October 2015; K. Horta personal communication, April 2017).

I stated in the analytical framework chapter, that *access* to decision-makers is critical to use conventional tactics. Where inside channels are blocked, they cannot be walked

upon. Access in the case of movement engagement toward World Bank member states consisted of two important, interrelated aspects. The first had to do with crisis at the World Bank, the second with the political systems of the most important World Bank member states (above all, the United States). Crisis at the World Bank was the outcome of disruptive movement tactics in Part I of the causal mechanism. In a pointed (and simplified) way, this crisis consisted in the decreasing lack of trust World Bank member states and their publics had in the institution to correct its own wrongdoings. The value of this crisis to the movement activists, however, played out in Part II of the mechanism, as it led to an increased demand for movement perspectives on behalf of decision-makers in World Bank member states. According to interviewees from Urgewald (Germany)<sup>15</sup>, the Bern Declaration (Switzerland)<sup>16</sup>, EDF<sup>17</sup> and CIEL<sup>18</sup> (both United States), their organizations were increasingly in contact with parliamentarians in the form of private encounters and expert briefings, the longer the crisis at the World Bank lasted. Of course, the evidence here needs to be treated with caution, as interview statements about development that are a long time ago are not very reliable. At the same time, there are no better pieces of evidence available for private, behind-closed-doors encounters than the memories of those involved. Also, the memories of encounters are relatively specific. For instance, David Hunter (the CIEL) recalled that he, Lori Udall (EDF) and Peter Bosshard (Bern Declaration) wrote an expert note on the idea of an independent review panel at the World Bank, which was then circulated among decision-makers in Switzerland. As he recalls “we did it for the Swiss Parliament – it was translated into German or French. And then I went over, and Peter [Bosshard] and I held meetings with Swiss parliamentarians, partly in English, partly in German. My German isn’t very good, that’s why I remember.” (David Hunter cited in van Putten, 2008, p. 361). Also, increased movement access to decision-makers in member states is plausible in light of the circumstances at this point. Given that MS decision-makers and their EDs did not trust Bank management any longer, NGOs that had good contacts to those affected on the ground were the best available experts to provide an alternative perspective. Thus, the (legitimacy) crisis at the World Bank – an important scope condition for the success of conventional tactics - was at the same time an important door opener for movement access.

The second factor that contributed to movement *access* were the political systems of the most important member states, above all the United States. To recall, the World Bank International Development Association (IDA) periodically receives funding from its member states (every 3 years). In principle, the state channel was thus an attractive option in all countries with major shares at the World Bank. Yet, among all possible state channels, U.S. Congress represented the most promising arena of contention: first, the U.S. had by far most shares at the World Bank and is thus the most critical member state for World Bank decision-making (see 3.3.2 for an elaboration of this scope condition). Secondly, inside the United States, Congress is the most important political institution

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15 Personal communication with Korinna Horta

16 Personal communication with Peter Bosshard

17 Personal communication with Bruce Rich

18 Personal communication with David Hunter

equipped with the capacity to influence MDBs. Especially, the subdivisions within U.S. Congress guarantee that, in principle, TSM can easily identify and approach those key members of Congress who form Congressional policy. More precisely, there is a division of labour between an authorizing committee and one of appropriations. While the former is tasked with the authorization of U.S. funding to the MDBs, the latter is tasked with a general budgetary oversight and has the last say in allocating funds. In practice, these roles are blurred, especially when it comes to foreign policy (Fisher, 1979). Both committees exist twice—in the House of Representatives and in the Senate—each one with its own chair. Yet, due to an informal division of labor, not all chairs are equally involved in an issue at the same time. As a result, persuading one committee chair to take a proactive stance on a given policy issue can, depending on the commitment and political clout of that person, suffice to shape Congressional action.

With the shift to these more conventional tactics (including parliamentary hearings, expert briefings, workshops and conferences with the aim to persuade decision-makers through strategic framing), the interaction between U.S.-based movement constituencies and Congress moved to the center of the TSM as a whole. As a first step of this approach, Lori Udall from EDF and David Hunter from CIEL convened a series of meetings with the United States ED and Treasury, but above all with the chairs of the relevant Congressional subcommittees to formulate their conditions. According to them, four minimal conditions needed to be met for any future accountability mechanism at the World Bank: (a) it had to be transparent, (b) independent, (c) citizen-driven, and (d) effective (D. Hunter, personal communication, March 2017). Naturally, such change in gears is rarely clear-cut. As a reminiscent of the confrontational approach until then, Udall, Bruce Rich and Deborah Moore (all from EDF) sent a letter to the editor of *The New York Times* entitled, “Before We Let the World Bank Squander More,” on January 6, 1993. In the article, the authors fundamentally question the World Bank’s legitimacy as an institution should it not engage in substantial institutional and policy reform. Foreclosing a new round of IDA replenishment toward the end of 1993, the authors again tackled the World Bank at its Achilles heel – IDA contributions by the US:

“Before agreeing to provide \$18 billion more to the bank’s International Development Association, taxpayers in the United States and other donor countries should be aware that these problems are systemic and that without major reforms the money will continue to be wasted on environmental and social disasters.” (The New York Times, 1993)

However, this article was the last clear incidence of open confrontation with the Bank. In the following, however, almost all energy was focused on the state channel. In March 1993, and just before a World Bank Board meeting that would have dealt with Narmada, the Indian government informed the Bank that it would not ask for further disbursements to finance the project. While this information meant a relief for the organization, TSM engagement had already come to a point where Narmada was viewed as only one piece of a sinister mosaic lacking human rights accountability. While contacts remained very good with activists against the Narmada Dam project (whose fight was ongoing, as

the Indian government wanted to proceed with the project alone)<sup>19</sup>, the importance of their actions diminished as discourse shifted away from the Narmada scandal toward the design of reform. To that aim of institutional and policy reform, contacts between the most informed D.C.-based organizations (BIC, NRDC, EDF and CIEL), academics that were part of the movement and U.S. Congress, intensified. Using the previous misconduct by the World Bank and its failure to react appropriately as a hook, activists and academics identified member of the U.S. Senate's and the House of Representative's Subcommittees on Appropriations as their main target, as these subcommittees would eventually have to approve U.S. funding to IDA. Eric Christiansen from NRDC wrote an article in which he proposed an independent appeals commission. Christiansen used the Morse Commission as a precedent for a body operating independently from the World Bank's Executive Directors and management and equipped with its own budget. Christiansen's article was the first writing on the topic and inspired the development of a range of proposals (Interview with David Hunter, cited in van Putten, 2008).

Now, that the movement had switched to inside channels, seeking to persuade decision-makers in the United States and Europe, the low degree of counter mobilization from decision-makers in key member states mattered as a scope condition to evaluate their likelihood for success. The targets that the movement identified in member states were overwhelmingly European and, above all, located in the United States. In all of these member state contexts, the core of the norm of direct human rights accountability was not contested.

Already in 1991, Bruni Weisen, a member of the movement from Berlin had put together a tour for Shripad Dharmadikary and Kisan Metha—two representatives of NBA—throughout Europe, meeting with journalists, activists and parliamentarians in Germany, Sweden, the United Kingdom, Denmark, and The Netherlands. Immediate tangible results of these efforts were a letter to Preston by Swedish parliamentarians as well as a letter by members of the European Parliament (Wirth, 2008). In retrospect, this European tour was not very successful in mobilizing key decision-makers at that time. However, it was successful in activating European movement constituencies, as several European NGOs took up the issue permanently (Udall, 1995). In particular, NGOs in Germany, Switzerland, and The Netherlands progressively established channels to parliamentarians working on development—contacts that were now of great use to complement advocacy toward Congress with inside tactics in Europe. As interviewees involved in the discussion with parliamentarians in Germany and Switzerland recall, there was agreement on the norm of accountability for any public institution. In particular, and corresponding to their own political systems, there was agreement that no public institution should violate human rights (standards), should report honestly on its conduct (transparency), and responsible in cases of misconduct (sanctions).<sup>20</sup> According to David Hunter,<sup>21</sup> it was the fall of the Berlin Wall in November 1989 that

19 The NBA succeeded to halt the dam construction until resettlement was carried out in a way that respected human rights in virtue of a Supreme Court ruling in 1995.

20 Martje van Putten, former MEP (btw. 1989–1999) and member of the World Bank Inspection Panel (1999–2004)

21 Interview D. Hunter, June 2015

opened up a very fruitful dialogue between environmentalist groups from Eastern and Western Europe about citizen participation in development projects and the right to information. In 1992, these groups pushed, together with major U.S. environmentalist movements, for enhanced transparency and citizen rights in development. Thanks to the Rio Conference, both these aspects of accountability were increasingly globalized and a resource for the movement advocating for accountability at the World Bank.<sup>22</sup> A series of important books and articles from the British diplomat and public international lawyer Philipp Allott (2002 [1989], 1990, 1992) were highly influential on legal scholars of the movement coalition in Europe and the United States. In his texts, Allott made the argument that historical developments such as the French Revolution and the American Civil War helped to establish that governments should be accountable to the people they govern. If MDBs (and other IOs) govern, they should be equally accountable. Allott thus criticized the idea that international law is only applicable between states and instead emphasized the need to enhance the legal accountability of global governance institutions toward those they are supposed to serve. David Hunter and Daniel Bradlow (the founders of CIEL) as well as their European movement colleagues, took up Allot's thoughts and argued toward policy makers that, currently, the World Bank was a "lawless institution." In late 1992 and early 1993, crucial European member states of the World Bank accepted the argument that the World Bank needed to become more accountable. In fact they had begun to engage in an argument regarding the concrete application of direct human rights accountability provisions.

In February of 1993, four EDs sympathetic to movement demands – those of Germany and the Netherlands, supported by those from Malaysia and Chile – openly acknowledged the need for institutional reform and developed a proposal for an independent in-house capacity to review projects. The proposal was a clear indicator that influential member states acknowledged the need for reform. In their proposal, they accepted the problem definition, causal attribution, and negative evaluation of the movement's frame. However, they did not follow the movement's frame fully, arguing in favor of an evaluation capacity that would be located under the Operations Evaluation Department (OED) of the World Bank. Moreover, the idea that those affected by World Bank projects would have direct legal standing in front of the organization across all World Bank projects, and without mediation by the member state in question, remained contentious (D. Hunter, personal communication, June 2015). Quickly after its circulation, though, neither the Transnational Social Movement, nor World Bank management was very keen to follow up on this proposal – although for different reasons. Among movement activists, it was clear that the proposal did not fulfill the four criteria of transparency, independence, and effectiveness. What is more, the ad hoc nature of the evaluation was diametrically opposed to the structural institutional reform envisioned by the movement (Interview with Chad Dobson). Inside the World Bank, the proposal did not resonate with management's still latent desire to retain maximum discretion

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22 According to Hunter, an outflow of this lasting cooperation between environmentalist groups in Europe was the Aarhus Convention signed in 1998—an international treaty that guarantees access to information, environmental rights, and access to courts to individuals

when getting the money out the door. Reviewing the proposal on behalf of the president, the Operations Evaluation Department concluded that there was no evident need for a permanent evaluation unit. Instead of an independent inspection capacity, OED envisioned that the World Bank President had to authorize inspection on an ad hoc basis (Shihata, 1994, p. 17).

In response to the ED's proposal, the argument of movement constituents (above all the environmental lawyers) was that the World Bank had immunity, like all other IOs. They are thus protected from national courts, as they are also protected from international human rights law. Hence, affected communities had no standing in front of any court, as there was no legal system applicable to the World Bank, outside its own mandate and operational policies. Following this reasoning, movement representatives slightly modified the action-dimension of their frame. Instead of an independent court, they now argued in favour of a semi-judicial, but independent body under the existing World Bank "law" under which affected communities would be heard (D. Hunter, personal communication, June 2015; B. Rich, personal communication, June 2015). Important European member states (including the United Kingdom, Germany, The Netherlands, and Denmark, Sweden, Finland and Norway) accepted the demand for direct human rights accountability, as the frame allowed to draw parallels with the rule of law principle of direct representation in their respective constitutions. Still, support for this new action-dimension was even stronger among decision-makers in the most important member state—the United States. The low degree of counter mobilization inside the United States can, at least in part, be explained with the presence of cognitive priors for such an idea of direct accountability. According to Przeworski, Stokes, and Manen (1999), the United States counts as one of the oldest democracies that prides itself particularly with a constitution that puts public accountability as well as the principle of checks and balances at the center (Przeworski et al., 1999). Moreover, movement constituencies seeing a strong connection between human rights and environmental law emphasize their domestic tradition of environmental impact assessment. The United States was the pioneer in introducing such domestic early warning and oversight mechanisms in its National Environmental Policy Act in 1969 – one year before the establishment of the U.S. Environmental Protection Agency (EPA). Since, citizens have a right to information (i.e., insights into the environmental impact assessment of government agencies), access to courts and joint complaints wherever communities were of the opinion that environmental standards would not be met (Glasson et al., 2005). It was primarily this model of environmental impact assessment that movement representatives used in relation to decision-makers in U.S. Congress.<sup>23</sup> Members of Congress in the field of environmental protection had been socialized with an understanding that "environmental democracy" (the term used by the movement) was an integral part of accountable institutions. Accordingly, the U.S. Congress had passed the "Pelosi Amendment" in 1989, a law that requires public disclosure and an environmental impact assessment of MDB projects 120 days before the U.S. Executive Director can vote in favor of that project. Already this bill was intended to give project-affected communities an opportunity to voice their concerns with regard to World Bank projects

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23 Interviews David Hunter; Bruce Rich, both in June 2015

(Sanford & Fletcher, 2008). An extension of the same principle to the area of social and political human rights was thus no major stretch for U.S. Congress. Thus, the United States was increasingly siding with the movement. Yet, persuasion was not yet complete. To reach compromise also with EDs opposing reform and thus consensus on the Board of Directors, Daniel Bradlow came out with a proposal for an ombudsman. As an academic and expert in international and development law, there was hope among U.S. and Canadian politicians that Bradlow would be able to reconcile the World Bank's reluctance to accept deep structural reform on the one hand, and the TSM demand for exactly such fundamental change on the other. In February of 1993, Bradlow was invited to testify before the Canadian parliamentary Sub-Committee on International Financial Institutions (Bradlow, 1993) and in May of that year to testify before U.S. House of Representatives Sub-Committee on Development, Finance and Urban Affairs (Bradlow, 1993). Bradlow proposed an ombudsman who would be appointed by the Board of Directors. Such an ombudsman would be able to investigate the World Bank staffs' implementation of World Bank policies. According to the proposal, he would be able to give nonbinding recommendations to the board as long as loan disbursements were ongoing. While Bradlow's proposal got considerable attention by the "Financial Press" (Conversation with Bruce Rich, 2015), World Bank management and Legal Department (Shihata, 1994), the proposal did not go far enough in the eyes of the movement. Behind the scenes, Lori Udall tried to convince U.S. Congress that an ombudsman was not sufficient, instead advocating strongly for an independent institution with enough bite to investigate against the interests of Management if needed. In 1993, legal scholar Jonathan Cahn published "Challenging the New Imperial Authority: The World Bank and the Democratization of Development". In the article, he argued that it was critical for an oversight body to acquire knowledge autonomously, proposing a "watchdog agency" independent from World Bank management and Board of Directors "which would have the capacity to monitor, report on and intervene in the World Bank lending process" (Cahn, 1993, p. 159). In addition, the Canadian lawyer and former co-chair of the Morse Commission, Thomas Berger, published an article reflecting on his independent review of the World Bank's engagement in India, making a strong case for an institutionalized and independent review capacity (Berger, 1993). During these months, the meetings of the Tuesday Group gained in importance as an inside channel of engagement via U.S. Treasury. In the late 1980s, the Tuesday Group had been critical in mitigating the conflict over strategy among members of the movement (see above). In 1993, the Tuesday Group mainly functioned as a forum to exchange views between the movement and the U.S. Treasury Department, which regularly attended these monthly meetings. Although it is ultimately the responsibility of the U.S. Congress to authorize U.S. funding for MDBs, the Treasury matters as the formal representation of the U.S. government in these institutions. The connections between the U.S. Executive Directors at the World Bank and Treasury are very close: It is the U.S. President who appoints the Executive Director, who then reports to Treasury (Bowles & Kormos, 1995).<sup>24</sup>

On May 5, the same day that Bradlow testified before the U.S. House of Representatives, Udall and David Hunter were invited to testify before that same subcommittee.

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24 Specifically, through the Assistant Secretary for International Affairs.

Against Bradlow's idea of an ombudsman, Hunter and Udall proposed the idea of an independent appeals commission (L. Udall, interview, October 2015). In their presentation before Congress, Udall, and Hunter connected the lack of accountability in the Narmada project to the overall lack of direct social and environmental accountability of the World Bank. They repeatedly connected their demands for an institutionalized appeals commission at the World Bank with comparable provisions that already existed in the U.S. context. Specifically, they connected their demand to the legal due diligence requirements valid under U.S. law, specifically the environmental impact assessment and argued that any institution working on U.S. taxpayers' money should fulfil that same minimum criterion. Drawing a parallel to the protection of each U.S. citizen under U.S. law, Hunter and Udall argued that the independent appeals commission would be a permanent institutional body consisting of three members with the ability to investigate any complaint from World Bank project-affected individuals (D. Hunter, personal communication, June 2015). In the back of Hunter and Udall's testimony loomed the ongoing threat of the TSM to campaign against *any* U.S. funding for IDA (Shihata, 1994, p. 20), which neither U.S. Congress, nor the TSM really wanted (B. Rich, personal communication, April 2017).

All evidence indicates that Udall and Hunter were successful with their testimony and that, as a consequence, the United States adopted the TSM's frame—their problem definition, causal attribution, and call for action. Following the hearing, the U.S. House of Representatives Subcommittee on International Development, Finance, Trade, and Monetary Policy published a draft bill on May 26 entitled "International Development and Debt Relief Act of 1993." The draft bill, which set the ground for the United States's IDA replenishment, incorporated the proposal and even the language for an independent appeals commission as proposed by Udall and Hunter—a doubly decisive test for successful advocacy. A version of this bill would later be passed into law in September of that year (see below). Though Hunter and Udall secured support from U.S. Congress, even the United States as a member state, only few people were actually critical in organizing this congressional support and it was those critical decision-makers that Udall and Hunter focused on most. In particular, EDF and CIEL efforts focused on Barney Frank, a democrat and the new chairperson of the Subcommittee on International Development, Finance, Trade, and Monetary Policy." There is consensus among TSM representatives and outside observers (Fox et al., 2003), that the cognitive map of Barney Frank was particularly favorable for the adoption of their full frame. By all standards, Barney Frank was an unusual politician. As the first married, gay, Jewish Congressman (Weisberg, 2009), Barney Frank was well-known until the end of his career for his strong voting record on social justice, civil rights and environmental protection (Gordon, 2016). Barney Frank knew what it meant to be at the margins of society. He could relate to the experience of being marginalized, with no voice and representation among those in power. It is therefore plausible to conclude that Frank movement claims for human rights and to provide those marginalized with a say enjoyed experiential commensurability with Frank's own biographical experiences (see Theory chapter 3.5.2). Moreover, Frank was receptive to claims for human rights and democracy (i.e., the claims enjoyed cognitive ease) in virtue of his political engagement as a democrat. Hence, in line with my operationalization of frame resonance (see chapter 4.3) the movement had good

chances to persuade him fully (i.e., to make him adopt not only the problem definition, causal attribution, and moral evaluation, but also the full action dimension of the movement frame). So it occurred: Barney Frank and Dr. Sydney Key, the Committee's staff director at the time, embraced the TSM's strong stance for an institutionalized, direct accountability function at the World Bank. Beyond that, they were soon convinced of the movement's proposal for a permanent inspection panel (see testimony by Udall and Hunter above). To adhere to the standards of true accountability, CIEL and EDF also pushed for enhanced transparency regarding World Bank operations. Frank and Key accepted the claim that the Bank needed institutionalized accountability, and were equally convinced by the claim that accountability presumed transparency (L. Udall, interview, October 2015). In the midst of these behind-the-scenes negotiations, *The Economist* (1993) declared Barney Frank to be the driver of the institutional and policy reforms. According to *The Economist*,

“Mr. Frank is promoting two simple things. He wants more openness in the way the Bank processes and approves projects, including greater disclosure of financial, economic and technical information. [...] The second reform is to set up a permanent commission of outside worthies with power to review World Bank decisions if there is a legitimate case that the Bank's own guidelines have been breached.” (*The Economist*, 1993)

Furthermore, the article cited John Kasich, Republican and a crucial figure on the House of Representative's Budget Committee, during the last debate in Congress on the upcoming World Bank funding with the words:

“Come on. Let us belly up here and let us cast a vote that sends a message to the World Bank that says to them: “What you are doing is not tolerated any more in this country. We want it to be fixed.” (*The Economist*, 1993)

*The Financial Times* published a story on July 2 indicating that the exchange between Washington D.C.-based NGOs and Congress “could radically alter the way the Washington-based development institution operates” (Graham, 1993, p. 9). By June/July 1993, Barney Frank and Sydney Key were fully on board with TSM demands and prepared to mobilize political capital for their proposed reforms. As Key later recalled,

“The subcommittee made a policy decision to go well beyond the traditional approach of providing ‘voice and vote’ instructions for the U.S. executive directors and [decided] instead to use the leverage associated with its power to authorize funding to achieve fundamental institutional reforms” (Key cited in Clark et al. 2003).

Repeatedly, the importance of epistemic and moral authority of movement constituents became evident at this phase of the interaction between movement representatives and Congress. Even though the movement was comprised of a diverse set of actors (the vast bulk of them followers of large membership organizations such as Sierra Club), major advances hinged on few individuals. Notably, David Hunter, Bruce Rich, Dani Bradlow, and Lori Udall were all public lawyers conveying epistemic authority. All four knew how to instrumentalize public international law, the emerging shift toward individual rights in human rights law (Simmons, 2009), and the writings of respected public in-

tellectuals such as Philipp Allott. At the same time, they made their arguments as credible representatives of those affected by the Narmada Dam project in India, but also as representatives of organizations with moral reputation among the media and public.<sup>25</sup> All four individuals who would become protagonists in persuading U.S. Congress thus combined high levels of epistemic, with moral authority. Accordingly, this scope condition in fact proves to be important for both, disruptive and conventional tactics.

Throughout the negotiations between the “elite” of the movement and Congress, as well as those between Congress and the World Bank EDs, tensions arose within the transnational social movement as some activists, primarily environmentalists, sought more disruptive strategies to eliminate all World Bank funding (Bowls & Kormos, 1995). However, the more moderate core of the movement were of the view that World Bank assistance to developing countries was not the alternative, but rather sound development finance—a position also emphasized in the report of the U.S. House of Representatives (1993). Within Congress and the U.S. government, Frank mobilized support for his reform plans. To the U.S. Senate, the by now well-rehearsed team composed of Frank and D.C.-based NGOs (above all the BIC, EDF and CIEL) the proposal for increased public access to information and an independent appeals or inspection panel resonated with long-held skepticism toward MDBs. In a statement following these meetings, the Senate used almost identical language the U.S. House of Representative’s report, demanding “fundamental change” to authorize further funding (U.S. Senate, 1993). In a next step and with the support of Barney Frank as well as the relevant House and Senate subcommittees in the back, the transnational coalition had to translate congressional leverage into MDB reform.

#### 6.4 Part 3: Member states incentivize MDB reform

From here on, it was largely Barney Frank who carried the cause forward to convert TSM demands into World Bank policy making at the latter’s Board of Directors. Once Frank put himself fully behind the demands, the process to reform a sticky institution such as the World Bank gained considerable speed. As Bruce Rich from EDF would later recall, “If one person really does have the right to say that he was responsible for the creation of the inspection panel, it’s Barney Frank.” (Interview with Bruce Rich). Convinced by the arguments and evidence presented by the CIEL and EDF, Frank developed a strong view concerning the institutional design of a new World Bank accountability mechanism. Critically, Frank envisioned the Inspection Panel as citizen-driven and independent. When Barney Frank called in a meeting with World Bank Executive Directors demanding an inspection panel, the ED’s were taken by surprise and replied “Look, you can’t order us to do anything.” Frank recalls replying, “I agree. And you can’t order me to pass the bill with the money” (Interview with Barney Frank, quoted in: Rich, 2013). With that initial, credible threat, Frank obtained a report from the House of Representatives calling for an independent oversight body for the World Bank as well

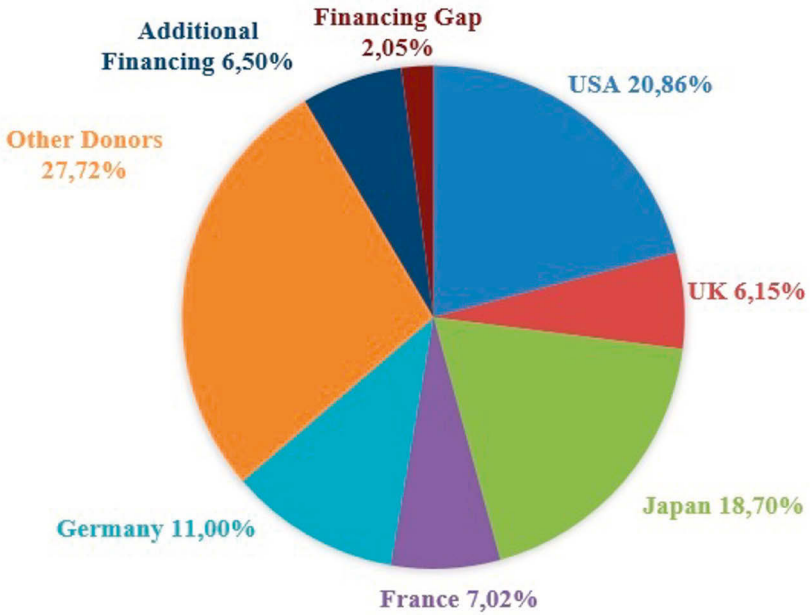
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25 CIEL and EDF had consulted the US government on several previous occasions and were thus seen a morally credible also by a wider audience inside the US (Interview CIEL).

as all other MDBs (U.S. House of Representatives, 1993). In principle, U.S. Congress has three principle mechanisms of influence available, with crescendoing impact: (a) policy guidance to the U.S. ED, (b) ED voting restrictions, and (c) budgetary power vis-à-vis the institution as a whole (for explanation of congressional means to influence MDBs in general, see Sanford, 1988). According to the first, Congress instructs, via legislation, the U.S. Executive Director to use his “voice and vote” at the Board of Directors to pursue certain policies and benchmarks (i.e., human rights protection; Sanford, 1988, p. 20). Then, U.S. Congress can pass legislation that restricts the voting behavior of the U.S. ED. For instance, Congress has used voting restrictions for cutting aid to countries with deteriorating human rights records against China and Iran (Sanford, 1988, p. 59). Last and most powerful are “conditional appropriations,” also referred to as “the power of the purse.” While unthinkable in other constitutional systems, U.S. Congress holds final approval over the U.S. budget. Thus, toward MDBs and toward domestic actors, it may condition the appropriation of money (i.e., to the establishment of new institutional procedures or the implementation of new policies). Although already the first two means of influence provide the U.S. ED with leverage he would not have on his own, this third channel of influence clearly exceeds what the U.S. ED (or Treasury for that matter) could do on his own. This was the means of influence Barney Frank invoked toward the World Bank (Bowls & Kormos, 1995). Importantly, the United States did not act alone. In parallel to building up the threat of a funding cut, congressional representatives met with World Bank EDs (particularly those of part I countries) behind closed doors to increase pressure on the Board of Directors to act. Before and during these meetings, representatives from the transnational coalition briefed both sides, even though the relationship with the newly won ally Barney Frank was of particular importance throughout the whole process (B. Rich, personal communication, June 2015). More and more, the World Bank found itself encapsulated with mounting pressure. The reforms demanded by Congress were substantial and if no clear signs toward such reforms were to become visible soon, Congress seemed prepared to cut the institution’s funding – money it was counting with and relying upon (C. Dobson, personal communication, May 2016). According to Anderson (2008), capitalizing on power asymmetries (i.e., consisting in unilateral dependencies), asserting one’s own interest, exploiting vulnerabilities of the other party and eliminating alternatives are key features of an interaction characterized by coercion. In principle, the World Bank can react to threats by U.S. Congress to cut its funding either by engaging in policy and institutional reform to meet the demands, or by refusing to accept conditionally appropriated funds. While the latter option would be in line with its Articles of Agreement (World Bank, 1945), U.S. funding to IDA weighs too heavily to be ignored. The World Bank’s Annual Report from 1993 reveals that the United States has been the largest contributor to IDA in 1993, followed by Japan, Germany, France and the United Kingdom (World Bank, 1993; see graph below). Even though Japan has been a very large donor, it is also a close ally of the United States and tends to follow the U.S. lead when acting on the World Bank Board of Directors (Andersen et al., 2006, p. 6).

Thus, the presence of power asymmetries between member states (on the Board of Directors) is a critical scope condition in my causal mechanism without which movement activism cannot translate into World Bank reform (see Chapter 3.5). In this par-

Graph 6: World Bank main Donors in 1993 (IDA)



Source: Data from World Bank Annual Report 1993

ticular case, power asymmetries between the United States (aligned with European donors) on the one hand, and other World Bank member states on the other were immense in 1993. In line with this reality, the record of conditional funding by the United States indicates that the World Bank had never chosen to refuse conditional funding until the mid-1990s (Brown & Kormos, 1995, p. 20). At the same time, protest from member states opposing the reform as well as World Bank management and presidency was only voiced covertly, but did never make it into the realm of acute counter mobilization (L. Udall, personal communication, October 2015). As a result of U.S. pressure, the World Bank’s Board of Directors and its President worked day and night to present a reform that Congress would deem sufficient. Formally, the negotiations then took place between Congress and the Bank. Unofficially, though, it was well understood by the World Bank that the EDF, BIC, and CIEL were backing Barney Frank, who gave his word that he would not agree to any proposal the movement could not agree to (Frank quoted in Van Putten, 2008).

On June 10th, the day that the Congressional Subcommittee on International Development, Finance, Trade, and Monetary Policy needed to approve the bill for IDA replenishment, World Bank President Preston circulated a paper within the Bank and to Congress entitled “Operations Inspection in the Bank: Issues and Options” In the paper, Preston noted “neither the President nor the Board want more surprises about problems

with ongoing projects” (World Bank, as cited in Clark, 2003, pp. 8-9). After analyzing structural accountability shortcomings of the World Bank, Preston concluded that a permanent accountability mechanism was in the best interest of the institution, and that such a mechanism “should be established immediately” (World Bank, as cited in Clark, 2003, p. 9). To negotiate the details following up on Preston’s announcement, informal meetings between World Bank management, Executive Directors, Barney Frank, and movement representatives took place on a frequent basis between July and September. World Bank management and operations had the task to work on the details for a resolution establishing a permanent inspection panel. Whenever a new proposal was drafted, it was sent to Congress, which in turn made sure that movement constituencies could comment the drafts and make recommendations for improvement until they were content (D. Hunter, personal communication, March 2017; L. Udall, personal communication, October 2015). As movement representatives recalled, the independent review of the Narmada Dam Project conducted by Thomas Berger and Bradford Morse (The Morse Commission) in 1992 provided an important template for the Inspection Panel. Due to a set of distinct features, the Morse Commission was perceived as credible and successful by the TSM. Among these features were: (a) complete access to all project information from the World Bank, as well as from the Indian government; (b) sufficient resources (time, staff and an independent budget of roughly US\$ 1 million); (c) the cooperation of all parties (including villagers, NGOs, the Indian government, and Bank staff); (d) no previous financial or contractual relationship with the World Bank; and finally, (e) a published report without prior editing by World Bank management. In practice, institutionalizing a review mechanism on the basis of these core principles meant to create a new institutional body and to draft a new access to information policy that would allow for the public release of early project documents as well as all social and environmental risk assessment.

Eventually, a compromise was reached. On September 22<sup>nd</sup>, the Board of Directors passed a resolution authorizing the creation of a World Bank Inspection Panel (World Bank, 1993). One day later, on September 23<sup>rd</sup>, the House Banking Committee met to debate the World Bank’s progress. Acknowledging the Board of Directors’ resolution calling for institutionalized accountability, Barney Frank was skeptical with regard to the implementation of the resolution. To “send a clear message” (Udall, 1995, p. 225), Congress cut the United States’ pledge to IDA by \$200 million and that to the IBRD by \$15 million – small amounts considering the overall budget, but an unequivocal flex of Congress’s financial muscle. Since Barney Frank was skeptical regarding the practicability of these reforms, he proposed to authorize funds for the first two years only, making authorization for the third year conditional upon sound implementation of the Board of Directors’ resolution (U.S. Congress, 1993). While this deal bought the World Bank some time, it also raised the bar for the emerging accountability function, its formal responsibilities as well as its staffing (C. Dobson, personal communication, April 2017). Given the high bar, Preston made the fulfillment of expectations his own challenge. Two days after the Congressional vote, Preston began mobilizing support for the Inspection Panel among Bank management and staff. In a letter to all employees headed “The World Bank Inspection Panel,” Preston advocated for a new era of accountability, emphasizing how the Inspection Panel would “complement the responsibilities and functions of the

existing systems for quality control in project preparation and implementation” (World Bank, 1993).<sup>26</sup>

Following up on the resolution authorizing the establishment of an inspection panel, the transnational social movement remained engaged. In spring 1994, Udall (who had in the meantime changed her organizational affiliation and was now with the International Rivers Network) and David Hunter (still at CIEL) published an article outlining their vision of the Inspection Panel’s rules of procedure in detail (Hunter & Udall, 1994). At its core, the proposal emphasized the need for low access barriers to the Inspection Panel. On June 21<sup>st</sup>, Udall and Hunter were invited to present their perspective at a hearing before the House Subcommittee on International Development, Finance, Trade and Monetary Policy (US Congress, 1994). Hunter, Udall, and Deputy Assistant Secretary to the Treasury Susan B. Levine, all emphasized the progress the World Bank made with regard to the Inspection Panel, but also concerning the World Bank’s improved transparency to detect violations in the first place. Notably, it had created a Public Information Center (U.S. Congress, 1994). Encouragement also came from the U.S. Senate. In its report for 1994, Senate noted that the World Bank had wasted taxpayers’ money, that it had “misguided projects or corrupt governments,” but also stressed that the fiftieth anniversary of Bretton Woods provided the World Bank with an excellent opportunity “to do some productive soul searching” (U.S. Senate, 1994). The World Bank was on track of reform. On June 20<sup>th</sup>, Udall spoke in front of Congress once more, negotiating with the World Bank via Congress the details the Bank’s upcoming Information Disclosure Policy. This policy supplemented the institutional reform by increasing the Bank’s transparency. In September of 1994, one year after the Board of Directors had passed the resolution, the Inspection Panel became operative.

## 6.5 Socialization Outcome: Comprehensive Human Rights Accountability

By 1993, operational policies covering important human rights in the context of development finance (including indigenous people’s rights, the right to housing and subsistence in the context of resettlement, as well as the right to food) were already formulated in binding language (high degree of obligation; value = 2; recap pp. 146 – 166 for an elaboration of these operationalizations). Also, their degree of precision was considerably high, as the policies specified the circumstances of their application to a sufficient degree to leave little room of doubt. However, operational policy directive “OD 4.20” safeguarding indigenous people’s rights failed to include the principle of “free, prior and informed consent” (FPIC) that the International Labour Organization’s “Indigenous and Tribal Peoples Convention” (No.169) from 1989 had established at the time of operational

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26 The importance of the World Bank as a pioneer for new standards of global governance (desired or undesired) was underlined on September 28, when the U.S. House of Representatives and Senate jointly passed a bill instructing the Treasury Department to seek the establishment of an independent and institutionalized accountability mechanism across all MDBs as well as the IMF (House/Senate H.R. 2295).

policy development at the World Bank (ILO, 1989).<sup>27</sup> Thus, with minor exceptions, existing policies were precise and clear (value = 1.5). Moreover, existing policies applied to the whole World Bank portfolio, thus adopting a very high value on that dimension of scope 1 (value = 2). However, safeguards covered only a fraction of existing human rights law. Essential rights that played an important role in World Bank projects such as labor rights, the right to nondiscrimination, or freedom of assembly were not part of the existing OPs (value = 1).

Crucially, however, there was no institutionalized complaint mechanism for people who were adversely affected by Bank-financed projects before the establishment of the Inspection Panel in 1993. With the Inspection Panel, an independent and permanent body was created (existence of oversight body – value = 2). Before, civil society representatives could write a formal letter of complaint to the Bank, but the attention such a letter received was entirely up to the Bank's management. Even though the panel could only make nonbinding recommendations, the World Bank followed TSM demands in that the panel would report directly to the Board of Directors, not management (value = 1).

Regarding the Inspection Panel's budget, the Resolution establishing the Inspection Panel states in paragraph 11, "The Panel shall be given such budgetary resources as shall be sufficient to carry out its activities" (World Bank, 1993). For the first three years, the budget was set at \$1.5 million yearly. According to the 1996-1997 Annual Report of the Inspection Panel, this budget was more than sufficient as there were only few cases in the early years and the Inspection Panel's expenditure was "each year about one-third under budget" (Inspection Panel, 1997, p. 21). Also, the Inspection Panel's first Chair (Richard E. Bissell) and staff were highly qualified and, in line with the resolution, "selected on the basis of their ability to deal thoroughly and fairly with the requests brought to them, their integrity and their independence from the Bank's management, and their exposure to developmental issues and to living conditions in developing countries" (World Bank, 1993, Art.4). All members also had knowledge and experience of the World Bank's operations. Thus, the Inspection Panel was able to deal with all cases in a timely manner.

In terms of scope, the Inspection Panel covered literally any project or program financed by the IBRD or the IDA – even where either of these only provided a small percentage of the funding. Moreover, the Inspection Panel has the authority to investigate harm or potential harm to people or the environment resulting from a failure to comply with the social and environmental World Bank Safeguards.<sup>28</sup> Moreover, the movement was successful with its demand to establish a direct accountability function: the Inspection Panel could "receive and investigate claims filed by citizens, nongovernmental organizations and others who claim damages caused by the Bank's failure to comply with its own policies, procedures and loan agreements" (Hunter & Udall, 1994) (value = 2). However, claims could be filed at headquarters only (value = 1).

In sum, the World Bank possessed a set of binding and precise social, cultural and economic human rights by 1994. At the same time, other important human rights were

27 In this context it is important to note, that the US had not ratified the ILO Convention No.169. As a matter of fact, only 19 states did ratify this Convention up to 2018.

28 Officially entitled "operational policies and procedures"

not yet covered. The introduction of the Inspection Panel meant that the World Bank increased its score on delegation (+ scope II) considerably. With the Inspection Panel, the World Bank now had an independent, citizen-driven oversight mechanism in place that could receive complaints from project-affected communities, irrespective of their state's consent. To sum up all values, consider the following table (cp. chapter 5.3):

Table 5: Outcome Case 1 – Summary

<b>Outcome Case 1 – Human Rights Accountability</b>		
Dimension	Values for each item	Value of Dimension
Obligation	Policies are formulated in binding documents and a highly binding language → 2	<b>2</b>
Precision	Provisions contain clear terminology and specify the circumstances of their application to a high degree, but fail to refer to the established principle of “free, prior and informed consent” → 1.5	<b>1.5</b>
Scope 1 (Policies)	Policies cover only some of the relevant human rights → 1 Policies apply to the whole → 2	$1 + 2 = 3$ $3 / 2 = 1.5$
Delegation	Independent and sufficient budget? Yes → 2 Highly qualified and sufficient staffing → 2 Only authorized to make nonbinding recommendations; though to the Board of Directors, not to management → 1	$2 + 2 + 1 = 5$ $5 / 3 = 1.66$
Scope 2 (Complaints)	The oversight body has jurisdiction over all MDB activity. → 2 Affected communities can file complaints → 2 Formal requirements to file a complaint: low/minor hurdles → 1.5	$2 + 2 + 1.5 = 5.5$ $5.5 / 3 = 1.83$
<b>Aggregate Value</b>	$8.66 / 5 = 1.73$ <b>Comprehensive Accountability</b>	

Source: own illustration.