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2024

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The River of Accountability Mechanisms: Then and Now

Suresh Nanwani¹

The source and the flow of the river

In 1993, the river of international accountability mechanisms (IAMs) commenced from its source – the [World Bank Inspection Panel](#) (The Panel). In its journey the river was fed by the tributaries of similar accountability mechanisms from other development institutions, including four regional development banks – the [Inter-American Development Bank](#) in 1994, the [Asian Development Bank](#) in 1995, the [European Bank for Reconstruction and Development](#) in 2003, and the [African Development Bank](#) in 2006. It also welcomed other entities – bilateral institutions like [Japan Bank for International Cooperation](#) (2003) and [Proparco](#) (2018), [United Nations Development Program](#) (2014) and other organizations like the [Green Climate Fund](#) (2017) and the [Asian Infrastructure Investment Bank](#) (2018).

Thirty years on, the river is still navigating several winding courses to manage its flow, while fulfilling its purpose as a people-driven mechanism. The [International Accountability Mechanisms Network](#) (IAN) was established under the auspices of the the Panel in 2004, and entities like [North American Agreement on Environmental Cooperation](#) (its citizen submission unit) were initially included in the first few years. The IAN states that while the IAMs “differ in nature and structure, collectively they share a common mission to independently assess people’s complaints and seek a response to their concerns.” From its inauguration in 2004 with a handful of organizations, it grew to 11 in 2012; as of August 2023, the network has expanded to over 20 IAMs.

These mechanisms are viewed as “independent” in assessing people’s complaints and in seeking a response to their concerns. They are independent from management, they report to the board of directors, and they are able to take measures that effectively enhance the development outcomes of their organizations. This assumption is a central theme in this essay. I also (i) include my views and experiences with IAMs; (ii) share my experience teaching this subject to students in various countries and obtaining their responses and reactions as future leaders; (iii) present an examination of the [Jamuna New Multipurpose Bridge Project request](#) and its impact then and on how some barriers have been removed; (iv) review the claimant’s needs in a citizen-driven mechanism; and (v) suggest best practices for accountability mechanisms moving forward.

Despite the proliferation of IAMs to address claims by project-impacted communities and the periodic reviews of many institutional accountability mechanism policies, there is still room for improvement in each mechanism and in the overall direction of the IAMs. While there were

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positive aspects in the setup of these mechanisms, there have also been shortcomings. Overall the landscape has changed over the years to better serve the needs of project communities. Still more needs to be done to achieve the lofty goal of independently assessing people's concerns and seeking responses to these.

My views are based on my work with IAMs in different capacities, including as one of the two co-drafters of the ADB accountability mechanism policy (2003); associate secretary of the ADB Compliance Review Panel; acting head of the Office of the Compliance Review Panel; secretary of the ADB Board of Directors' Compliance Review Committee; accountability practitioner; and lecturer. My views are also shaped by my interactions with civil society members, including those championing advocacy and good governance in development finance.

My views and experiences - including teaching students

The Panel's early years were fraught with many issues, including panel independence and panel access.² In teaching the topic of accountability mechanisms in a course on international development finance, I find students' reactions a mixed bag: surprise to dismay, to wonderment, to hope. Having case studies of actual project claims provides students with a wider mindset on various issues raised in these claims, and how the accountability mechanism has addressed them, while learning how organizations work in project operations.

Surprise at the idea that individuals have a voice, at the international level, to articulate their grievances on projects supported by development financial institutions. **Dismay** that the remedies available to the project affectees are limited as no damages or injunctions can be made, and that the process can be politicized within the institution, including by management and staff, the board of directors, and shareholder member countries. **Wonder** that the mechanism with its central theme of accountability (and its multifaceted meanings) and good governance is critical to many contexts, such as public disclosure policies and environmental, social and governance frameworks for the organization. **Added wonder** that the case studies remind students of similar cases in their own experience, which they may see anew through the lens of a more informed perspective. **Hope** that the current climate change regime, with its impact on the world and on development, will allow far more openness, transparency, and discussion around accountability, and with more participatory outcomes for project affectees and civil society organizations (CSOs) that were officially not part of the Bank's development business 40 years ago.

In my teaching, students' responses in their discussions on project claims filed with accountability mechanisms have been candid and insightful. (i) When claimants file again on the same project with repeated concerns such as involuntary resettlement, the legacy projects are not managed more effectively by the institutions to enhance their organizational development effectiveness (such as the Southern Transport Development Project in Sri Lanka and the Bujagali hydropower plant project in Uganda). (ii) Despite the purpose of the mechanisms to address project concerns by citizens, the immunity of the organizations is viewed as an impediment in delivering effective remedies for project communities; the immunity should be seriously reconsidered by the

² Lori Udall. *The World Bank Inspection Panel: A Three Year Review*. October (1997). Edited and published by the Bank Information Center.

institutions if they wish to effectively address project concerns. (iii) The institutions should take active steps by setting aside funds to defray for non-compliance as the projects are prepared and financed in accordance with their procedures and policies. (iv) The students have varying views in the rich debate and they realize that development is a gradual process. Importantly they gain awareness that much more can be done by the institutions to prevent their design and implementation of poorly-designed projects.

The Jamuna New Multipurpose Bridge Project request

I am also struck by students' reactions when they discuss the [Jamuna New Multipurpose Bridge Project request](#) (1996) as a case study in class as they learn to articulate their views and how improvements in the project can be made to avoid harmful impacts on marginalized communities. This project claim in the early years of the Panel is significant for enabling the empowerment of about 3,000 char (island) people in the Jamuna river – the poorest and most vulnerable people in Bangladesh. They signed the request through signatures and thumb prints, and authorized the director of Jamuna Char Integrated Development Project (JCDP), a local CSO, to represent them. The panel conducted an assessment of the claim and management's response, but did not recommend an investigation of the claim on the basis that management would follow through on its commitments under the Erosion and Flood Policy (ERP) agreed with the government of Bangladesh.

The ERP was a milestone because it provided the people in Bangladesh – including the char dwellers who had been excluded from the project's design and appraisal phases, including the environmental and resettlement plans – the right to compensation for losses from river erosion. JCDP had working relationships with international CSOs such as International Rivers Network and Center for International Environmental Law. In 1996, JCDP did not have access to the Internet and it also lacked information or guidance based on other requests that had been filed with the Panel. It also encountered difficulties in filing a claim in English, as the panel procedures and other documents were not available in Bengali, where most of the claimants had no formal education. I also highlight this project claim on the matters below.

A powerful tool for voices to be heard

The Panel achieved a powerful result even in its early years: from remote areas in Bangladesh, the 3,000 disenfranchised char dwellers had their voices heard at the World Bank's headquarters in Washington, D.C. The claim caught considerable international media attention, partially as a result of the number of claimants; few later claims, at other accountability mechanisms, were brought by so many. Many IAMs have since published their communications materials in languages other than the institution's official languages, and the the Panel information brochure is available in many languages including [Bengali](#). Claims may now be filed in languages other than English, and local languages can now be used in almost all the mechanisms.

Forum shopping

The claimants are free to forum shop if the project is supported by institutions with accountability mechanisms. The claimants in the Bangladesh project had the option to file a claim with the then-fledgling ADB Inspection Function (1995), as ADB was also a co-financier. However, the claimants chose to access the Panel because it attracted more international attention and also because the World Bank was the lead agency among the lending institutions.

Forum shopping allows claimants to approach their IAMs of choice for various reasons including a better functioning mechanism with experience and visible public attention (in the case of the Bangladesh project); and where there had already been claims filed with the key institutional lender, Asian Development Bank (the [Southern Transport Development Project](#)) instead of JBIC, which provided parallel financing – in this instance many project matters were left to ADB including the application of ADB’s safeguard policies. In another example, the claimants chose to use two mechanisms at the same time – the [WHIP](#) and [AfDB’s accountability mechanism](#) in the Private Power Generation Project (Bujagali hydropower plant). The claimants wanted to know how their requests for compliance review would work out at both institutions, as each institution would investigate following their own operational policies. Many project claims have since been filed with two or more mechanisms, such as the Pando Monteliro Hydropower Electric project (Panama) claim filed with IADB’s ICIM and the CAO Office, and the Baku-Tbilisi-Ceyhan pipeline project, (Azerbaijan, Georgia, Turkey) filed with the CAO Office and EBRD’s accountability mechanism.

Gradual progress on better access

Another development of IAMs is the gradual removal of barriers which provided better access for claimants. Accountability mechanisms have made themselves more accessible over periodic reviews by removing restrictions such as the need to file claims only in English and to cite specific policies alleged to have been violated. Other steps included extending the [95 percent loan disbursement](#) at the Panel (on claims filed for project approved by the board of directors after the 2020 resolution) to a longer period - such as two years after the loan closing date in the case of the [ADB accountability mechanism](#). At the CAO [at IFC and MIGA](#), the claim can be filed up to 15 months after exit by IFC/MIGA through termination of the financing, investment, or expiration of the guarantee period.

It is surprising, given that the Panel is the fountainhead of all accountability mechanisms, that there has not been as much progress with the others in two key areas. First, the Panel does not automatically monitor the outcome of the decisions by the Board of Directors based on the panel’s findings report. This is an area where some mechanisms such as the ADB accountability mechanism, EBRD IPAM, and AfDB IRM fare far better in moving forward.

Second, the Panel allows groups of two or more private citizens who believe that they or their interests have been or could be harmed by Bank-financed activities to present their concerns through a request for inspection. This is also the position taken by the [ADB Accountability Mechanism](#). However, other mechanisms have gone much further in allowing CSOs or individuals

to file claims. The CAO Office at IFC/MIGA was the first to incorporate this claimant eligibility, which has since been emulated by other mechanisms including the EBRD's IPAM.

The fear of the “floodgate principle” behind the WHIP's or ADB accountability mechanism's threshold does not hold any water, as there has been no deluge of claims in the many other mechanisms allowing individuals to file claims. Upholding the right of individuals to file claims makes the mechanisms more friendly and accessible, as citizen-driven mechanisms without the rigid requirement of a group of two or more persons.

What does a claimant really want?

Despite the platitudes found in the communications of many accountability mechanisms - for example “The Inspection Panel is an independent complaints mechanism for people and communities who believe that they have been, or are likely to be, adversely affected by a World Bank-funded project” ([the Panel homepage](#)) - the reality is far different that it is truly a mechanism which can actually meet the claimant's needs. IAMs reflect the principle of “citizen-driven accountability” which aims to give greater voice and rights of recourse to people with respect to actions that affect them.³ Yet, when it comes to the crunch, the avenues afforded to the claimants are essentially still driven by the institutions.

An example is the 1995 ADB Inspection Function (IF) policy, using the term “inspection” from the World Bank Inspection Panel. ADB received responses from civil society objecting to the exclusion of private sector operations from the scope of the IF policy. ADB's response was that this concern would be visited as part of the general review of the policy. In 1998, ADB had a review of the IF policy on the application of the inspection procedures to private sector operations as was required by the 1995 policy. However, ADB produced only a working paper, not a final board-approved paper, after the review. In 2003, after a two-year extensive consultation process, both internal and external, ADB replaced its IF policy with an Accountability Mechanism policy which not only allowed both problem-solving and compliance review, but also expanded to cover private sector operations. The review was a marked 180-degree turnaround from the 1995 IF policy, which had no public consultation review. A representative from Bank Information Center, USA in the Washington, DC workshop in 2002 stated that “this was the best consultation that ADB has done in its working with NGOs” and that the full impact “is not there as yet, but almost”.⁴ The extensive engagement made by ADB with civil society was critical to the delivery of a new policy that CSOs felt their voices were heard.

Thirty years on, the avenues have shifted gear starting from compliance review (in 1993) to problem solving (commencing since 2003 with the ADB accountability mechanism and the EBRD project complaint mechanism which had dual functions). Most mechanisms now encompass three broad functions: compliance review, problem-solving, and advisory. Problem-solving and compliance review, as dual options, were introduced in 2003 by the ADB as the first IFI creating

³ Kristen Lewis, [Citizen-driven Accountability for Sustainable Development: Giving Affected People a Greater Voice—20 Years On](#). A contribution to Rio+20 by the Independent Accountability Mechanisms Network, INSPECTION PANEL (June 2012).

⁴ ADB (2002) *Summary of Proceedings Report: External Consultations to Review the Inspection Function*. Washington, DC.

these joint functions for the entire institution; van Putten considered “the ADB model a vanguard amongst the accountability mechanisms”.⁵ The initial examples of advisory are found in the CAO and in the [Office of Accountability of the U.S. International Development Finance Corporation](#), which provides advice in a formal capacity to the president and management of that institution. Many other IAMs have incorporated this function to enhance the development effectiveness of the operation of their respective institutions.

Need to be more responsive to claimants

The public consultations carried out by many IFIs in enunciating a new policy or in updating their accountability mechanisms have demonstrated the need to be more responsive to claimants, who are still largely left out of the equation. And accountability mechanisms are still seen as internal governance tools of the IFIs. This stance is at odds with the principle of citizen-driven mechanism as at the end, the decision on any complaint rests within the institution and its member shareholders.

In recent years, there has been a widening of the ambit to allow “redress” for claimants; the Green Climate Fund’s IRM is required to be “[cost-effective and expeditious in the delivery of just redress](#)” in line with its [mandate](#) “to address complaints from affected people and provide recourse in a way that is fair, effective and transparent, and enhance the performance of GCF’s climate funding.” The term redress is defined in the [Procedures and Guidelines of the Independent Redress Mechanism](#) (2021) as “to set right or remedy an adverse impact that has been or may be caused by a GCF funded project or programme. When such a project or programme has been found to be not in compliance with GCF operational policies and procedures, redress includes bringing the project or program into compliance.” The definition of redress is wider here than merely bringing the project back into compliance.

The debate on reinforcing remedy stems not just from project communities – who are effectively shut out from the mechanism process at many stages – but has been given voice by many practitioners. Civil society groups, including Accountability Counsel, also reinforce advocacy for the effective functioning of IAMs. They advocate providing “remedy for environmental harm and rights abuses”.⁶ The reality is that these mechanisms were not designed for judicial remedies, as they were internal administrative tools for the institutions.

Best practices moving forward

There have been many proposals suggesting the best criteria for an accountability mechanism. As early as 2003, Hunter⁷ proffered three basic criteria – independence of bank management; transparency; and participation by the local communities affected by the bank’s projects. These critical criteria have given rise to other useful lists. Since 2005, academics and practitioners have

⁵ MAARTJE VAN PUTTEN & MARIA JEANETTE ANNA PUTTEN, *POLICING THE WORLD: ACCOUNTABILITY MECHANISMS FOR MULTILATERAL FINANCIAL INSTITUTIONS AND PRIVATE FINANCIAL INSTITUTIONS* 129 (Tilburg University, 2006).

⁶ Komala Ramachandra, *Civil Society in the Independent Accountability Community of Practice*, in *THE PRACTICE OF INDEPENDENT ACCOUNTABILITY MECHANISMS: TOWARDS GOOD GOVERNANCE IN DEVELOPMENT FINANCE*. 291-307 (Owen McIntyre, and Suresh Nanwani, eds., 2019).

⁷ David Hunter, *Using the World Bank Inspection Panel to Defend the Interests of Project-Affected People*, 4(1), *CHICAGO JOURNAL OF INTERNATIONAL LAW*, 201-211 (2003).

recommended benchmarks in designing an accountability mechanism, including Bradlow (2005)⁸; Weiss (2007)⁹; Bridgeman and Hunter (2008)¹⁰; and Bissell and Nanwani (2009)¹¹. The standards are broadly similar and in sync with the benchmarks of the effectiveness criteria of the UNGPs, with a significant accent on business and human rights including addressing the provision of effective remedies and reprisal.

There is no perfect recipe for an ideal accountability mechanism. In my view, the best practice lies in adapting to the needs of the project communities, including the need for protection from retaliation; recognizing the crucial role played by CSOs as independent development actors under the [Accra Agenda for Action](#) (2008); and the work by the Office of the High Commissioner, United Nations Human Rights (OHCHR) on its Accountability and Remedy Project (ARP) from 2014 to 2022 with OHCHR's publication on [Remedy and Development Finance: Guidance and Application](#) (2022).

This forward-looking approach is in line with current thinking on expanding the accessibility of accountability mechanisms to users and addressing their needs, in addition to enhancing institutional development effectiveness. But before expanding this access, the issue of independence has to be settled. One clear instance is the [2012 ADB Accountability Mechanism](#), where the Special Project Facilitator is appointed by and reports to the president. CSOs were not satisfied that there was no change to ensure the independence of the mechanism during the public consultations leading to the 2012 ADB accountability mechanism, with the result that three CSOs disengaged from the consultations – Both ENDS; NGO Forum on ADB; and Oxfam Australia. This is in stark contrast to the more constructive engagement with CSOs in the previous public consultations in the review resulting in the 2003 ADB accountability mechanism.

The Panel experience, to which Bissell attests, remains valid today for many accountability mechanisms – panel independence is only partial at best with the board of directors dividing in supporting the statutory independence of the panel, and the grim reality that the board of directors and management, in their own ways and from different perspectives, are uncomfortable with the panel being independent.¹² De Silva identifies two fatal flaws in the IAM system in his article on [Fixing a broken accountability system at MDBs and DFIs](#) (2022): the board and president are not impartial or independent as they are political by nature, and there is a break in the chain of accountability.

Panel independence still remains a vexing and unresolved issue in terms of operational independence. The Panel and other IAMs are all independent (with many mechanisms

⁸ Daniel Bradlow, *Private Complainants and International Organizations: A Comparative Study of The Independent Inspection Mechanisms in International Financial Institutions*, 36 GEORGETOWN JOURNAL OF INTERNATIONAL LAW, Volume 36, 405-494, (2005).

⁹ Fourth Meeting of Principals of Independent Accountability Mechanisms in International Financial Institutions held in June 2007 in EBRD, London.

¹⁰ Natalie Bridgeman and David Hunter, *Narrowing the Accountability Gap: Toward a New Foreign Investor Accountability Mechanism*, GEORGETOWN INTERNATIONAL ENVIRONMENTAL LAW REVIEW, 188-236, (2008).

¹¹ Richard Bissell and Suresh Nanwani, *Multilateral Development Bank Accountability Mechanisms: Developments and Challenges*, 3(2), CENTRAL EUROPEAN JOURNAL OF INTERNATIONAL AND SECURITY STUDIES, 154-197 (2009).

¹² Richard Bissell, *Institutional and Procedural Aspects of the Inspection Panel*, in THE INSPECTION PANEL OF THE WORLD BANK: A DIFFERENT COMPLAINTS PROCEDURE 107-125 (Alfredsson G. and Ring, E., eds., 2001).

incorporating “independent” in their names, such as [EBRD’s Independent Project Accountability Mechanism](#)). This independence is crucial to the nomenclature of the *Independent* Accountability Mechanisms (emphasis added). These mechanisms should not be viewed as independent as a façade but because they incorporate yardsticks as credible mechanisms by their users. The yardsticks of a person not working as a staff member, fixed term appointment, and permanent bar from employment in the organization after serving the term are pivotal – but more needs to be done to ensure non-politicization by the institution through its board of directors and management. Representation from civil society needs to be firmly entrenched – and not for window dressing – in the appointment and selection process to ensure credibility for the independent mechanism.

With the climate change regime taking precedence now over the right to development agenda of the 1990s, and the ongoing transformational change on the review of the World Bank Evolution Roadmap, we are at a turning point for institutions which are either contemplating accountability mechanisms such as the New Development Bank¹³ or seeking to update their accountability mechanisms. The IAN can serve as a collective platform to discuss effective ways in addressing citizen complaints on legacy projects, as these projects involve institutional lenders. It would serve citizens as well as the institutions in establishing how these legacy projects can be addressed by all to avoid repetition and to enhance development outcomes, as in the cases of the Bujagali hydropower plant project in Uganda and the Baku–Tbilisi–Ceyhan (BTC) pipeline project.

The role of civil society cannot be ignored as the mechanisms are citizen-driven. Civil society can and continues to play a pivotal role in empowering accountability mechanisms to serve their purpose by managing river currents and rapids as the river meanders to the sea as a truly people-driven mechanism.

¹³ New Development Bank, [New Development Bank General Strategy for 2022-2026: Scaling up Development Finance For a Sustainable Future](#), p. 25. “To adequately address grievances arising out of its expanding operations and to collect feedback from clients as well as individuals, communities, and civil society organizations (CSOs), the Bank will establish well-designed mechanisms that will supplement clients’ own grievance redressal mechanisms.”