

THE WORLD BANK INSPECTION PANEL

LITERATURE REVIEW

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The mandate and competences/functions of the World Bank Inspection Panel

The World Bank Inspection Panel (hereinafter “the Panel”), was created in 1993 as an independent, public accountability institution in response to environmental and human rights critics. People who believe they are or will be adversely affected by Bank-funded projects may file claims with the Panel. The purpose is to investigate claims of Bank noncompliance with its operational policies and procedures.¹ The Panel was created by two resolutions of the International Bank for Reconstruction and Development (IBRD) and International Development Agency (IDA) that have been tagged as the “resolution.” The resolution grants jurisdiction to the Panel for projects funded by the World Bank and states the mandates and structure of the Panel.² The role of the Panel is to bring Bank projects into compliance, not to repair wrongs caused by violation of international law.³

Both internal and external pressures resulted in the Panel’s creation. From within the Bank, questions arose surrounding the efficiency of internal procedures. Externally, non-

¹ Jonathan A. Fox, *The World Bank Inspection Panel: Lessons from the First Five Years*, 6 *Glob. Gov.* 279–318 (2000), <https://www.jstor.org/stable/27800266> (last visited Jan 26, 2021). ;

Maurizio Ragazzi, *INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT/INTERNATIONAL DEVELOPMENT ASSOCIATION: INSPECTION PANEL OPERATING PROCEDURES, INCLUDING EXECUTIVE DIRECTORS’ RESOLUTION AND EXPLANATORY MEMORANDUM OF THE GENERAL COUNSEL*, 34 *Int. Leg. Mater.* 503–534 (1995), <https://www.jstor.org/stable/20698435> (last visited Jan 26, 2021).

; 35044-InspectionPanel-25-v11, , 35044-InspectionPanel-25-v11 ,

<http://viewer.zmags.com/publication/62e2dae9#/62e2dae9/1> (last visited Jan 26, 2021).

Yvonne Wong & Benoit Mayer, *The World Bank’s Inspection Panel: A Tool for Accountability*, 6 *WORLD BANK LEGAL REV.* 495 (2015).

² Daniel D. Bradlow, *External Review of the Inspection Panel’s Toolkit*, 2018,

<http://documents1.worldbank.org/curated/en/562131583764988998/pdf/External-Review-of-the-Inspection-Panel-s-Toolkit.pdf> (last visited Feb 7, 2021) at 40

³ Yvonne Wong & Benoit Mayer, *The World Bank’s Inspection Panel: A Tool for Accountability*, 6 *WORLD BANK LEGAL REV.* 495 (2015). 502

governmental organizations criticized the Bank's lack of transparency.⁴ A catalyst for the formation of the Panel were the Sardar Sarovar Dam and Canal projects on the Narmada River in India. These projects resulted in the resettlement of 120,000 people and raised environmental concerns. Faced with harsh international criticism, World Bank President Barber Conable ordered an independent investigation of the projects called the Morse Commission. The Morse Commission found that the Bank failed to conduct a proper environmental assessment, which resulted in environmental and human rights issues. The Bank also faced criticism surrounding sustainable development for the 1992 Rio de Janeiro Great Earth Summit Project. The creation of the Panel was in part a result of growing social and political movements in the 1980s and 90s, especially concerning environment and human rights issues.⁵⁶

The Panel utilizes a unique bottom-up, rather than top-down, approach of accountability. The Panel is radical because citizens are able to hold an international institution accountable without going through their national government.⁷ The establishment of the Panel improved the accountability of Bank Management and staff to ensure adherence with policies and procedures that serve as quality control in project design, appraisal, and implementation.⁸ Accountability, according to Barlas and Tassoni, includes the access to information and the right to participation. The step towards accountability in the Bank created a direct link between the affected people and the Board of Executive Directors (hereinafter, "the Board"), which

⁴ 35044-InspectionPanel-25-v11, , 35044-InspectionPanel-25-v11 , <http://viewer.zmags.com/publication/62e2dae9#/62e2dae9/1> (last visited Jan 26, 2021).

⁵ *Id.*

⁶ MITHILESH KUMAR, *The World Bank And Human Rights: A STUDY OF THE BANK'S INSPECTION PANEL*, 20 World Aff. J. Int. Issues 110–125 (2016), <https://www.jstor.org/stable/48505267> (last visited Jan 26, 2021).

⁷ *Id.*

⁸ Elvira Nurmukhametova, Problems in Connection with the Efficiency of the World Bank Inspection Panel, 10 Max Planck Y.B. U.N. L. 397 (2006). 399

serves as the highest decision-making body of the Bank.⁹ This move reflects the inclusion of individuals and affected communities in World Bank projects.

Fact-finding powers and accountability procedures of the Panel

The Panel is composed of three members, including a Chairperson. The panelists are nominated by the World Bank President and appointed by the Board. There is also a permanent secretariat, who offers administrative support.^{10 11 12} Each Panel member serves for a five-year term. The Chairperson works full-time, while the other panellists are called upon when requests for inspection arise.¹³ Panelists are impartial and not affiliated with Bank Management. They respond directly to the Board.¹⁴

The Panel adheres to a specific process when it receives a claim. First, it notifies the Board and sends a copy of the claim to Bank Management, which responds within 21 days. The Panel then receives Management's response and weighs it against evidence from the requesters to decide whether or not it supports an investigation. The Panel then makes a recommendation to the Board within 21 days to either launch an investigation or not. The Panel proceeds with an investigation if the Board decides to permit one. The panelists send a final report of their findings to Management and the Executive Directors. Management then takes six weeks to form an action plan on steps the Bank should take. Finally, the Executive Directors

⁹ Dilek Barlas, Tatiana Tassoni, Improving Service Delivery through Voice and Accountability; The Experience of the World Bank Inspection Panel at 482

¹⁰ About the Inspection Panel | Inspection Panel, <https://www.inspectionpanel.org/about-us/about-inspection-panel> (last visited Jan 26, 2021).

¹¹ Ragazzi, *supra* note 2.

¹² Resolution1993.pdf, <https://www.inspectionpanel.org/sites/ip-ms8.extcc.com/files/documents/Resolution1993.pdf> (last visited Jan 26, 2021).

¹³ *Id.*

¹⁴ KUMAR, *supra* note 6

vote on the action plan and response efforts are launched. Following the Panel's investigation and the submission of its report to the Board, the report is shared with requesters.^{15 16}

In a bid to uphold accountability access, the Panel has been made available to various people to request an investigation. The people who are able to request an investigation include: two or more individuals who are directly affected, local representatives, non-local representatives with proper proof of authorization, an Executive Director, and the Executive Directors acting as a Board.^{17 18 19} Generally, the process of making a complaint has been tagged as a confidential, easy and user-friendly process. The complaint can be submitted in any language.^[1] The elimination of certain hurdles in the complaint process shows the Bank's desire to be held accountable.

There are three core requirements requesters must meet to request inspection by the Panel. First, requesters must demonstrate that they have or are likely to be adversely affected by a Bank-funded project. Second, the harm must be a clear result of the Bank's failure to follow its operational policies and procedures. Third, the Bank must have failed to properly address the issue after it had been previously brought to its attention.^{20 21}

There are a number of operational, or "safeguard," policies the Bank must abide by. The Panel addresses claims regarding these minimum mandatory policies. For example, the Bank is required to administer an environmental impact assessment prior to the launch of a

¹⁵ Fox, *supra* note 1.

¹⁶ [InspectionPanelResolution.pdf](#),

<https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/documents/InspectionPanelResolution.pdf> (last visited Jan 26, 2021).

¹⁷ Wong, *Supra* note 3 at 502

¹⁸ Barlas. *Supra* note 9

¹⁹ Mariarita Circi, The World Bank Inspection Panel: Is It Really Effective, 6 GLOBAL JURIST [i] (2006). at 6

²⁰ Fox, *supra* note 1.

²¹ [InspectionPanelResolution.pdf](#),

<https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/documents/InspectionPanelResolution.pdf> (last visited Jan 26, 2021).

project. There are additional “good practice” recommendations, which the Panel does not hold the Bank specifically accountable for.^{22 23}

To protect the reputation of the Bank and the interest of claimants, Management and the requesters of the investigation sometimes skip the process of registration of complaint and negotiate directly instead. This provides a platform for fast remedy.²⁴

Although investigations are based on violations of operational policy or procedure, some believe that very little emphasis has been put on obtaining optimal remedial measures, while others consider the remedies non-trivial because compensation to victims can be mandated and projects can be changed or halted to prevent future harm.²⁵ According to these advocates, these remedies prove the potency of quasi-judicial accountability mechanisms and its ability to complement domestic and international courts.²⁶ Critics have stated that there is no clarity on the effects of non-compliance because the Panel has not been given the mandate to follow up with the decision of the Board.²⁷

Although the Panel mechanism has generally been praised for its ability to make the Bank accountable in upholding human rights and the general interest of members of the community, arguments have arisen as to the insufficiency of these remedies when grievous harm has taken place. An author states that the “harsh remedies” stipulated are insufficient and disproportionate to the harm done because there is hardly any resort to punitive remedies.²⁸ Research shows that the Panel has adjudicated on serious allegations involving crimes such as torture, imprisonment, environmental damage and loss of livelihood. Violations such as rape,

²² Fox, *supra* note 1

²³ KUMAR, *supra* note 5.

²⁴ Wong, *Supra* note 3, at 506

²⁵ *Id.* at 507.

²⁶ Ta, Lynn and Graham, Benjamin A. T., Can Quasi-Judicial Bodies at the World Bank Provide Justice in Human Rights Cases? (June 5, 2018), SSRN: <https://ssrn.com/abstract=3191690> or <http://dx.doi.org/10.2139/ssrn.3191690> at 141.

²⁷ Wong, *supra* note 3 at 507

²⁸ *Id.*

child labour and killings have also occurred when carrying out Bank projects. The justice required when these violations occur is not attained when punitive remedies are not used.²⁹ To increase the rating of the Panel as one with real enforcement authority, there is a need to enforce punitive remedies for certain harm that has taken place as a result of Bank projects.

The 1993 resolution was updated in 1996 and 1999 with the addition of clarifications.³⁰ In 2014, the Panel updated its Operating Procedures. The Bank's operational policies and procedures include not only safeguard policies, but also all other policies and procedures related to the appraisal, design and implementation of Bank-financed projects. The aim of the updated procedures is to make the Panel more accessible, user-friendly and effective in the manner that it receives complaints from affected communities and individuals.³¹

In September 2020, a resolution established the World Bank Accountability Mechanism (AM), which will restructure the Bank's accountability processes beginning in early 2021. The AM will be composed of two parts: the existing Inspection Panel and a new Dispute Resolution Service. The Panel's functions will remain independent from Bank Management and the Dispute Resolution Service. The Bank President will nominate an AM Secretary, who will be appointed by the Executive Directors. The AM Secretary will work in consultation with the Panel Chairperson but not as an overseer.³² Additional 2020 reforms include the Panel's ability to monitor Management's action plans and the extension of the timeline for communities to file complaints. The reforms were designed to increase the Panel's powers.³³ Further, as a part of the new resolution, Management may submit evidence of

²⁹ Lynn, *supra* note 26 at 117

³⁰ Bradlow, *supra* note 2 at 40

³¹ *Id.*

³² AccountabilityMechanismResolution.pdf, , <https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/documents/AccountabilityMechanismResolution.pdf> (last visited Jan 26, 2021).

³³ World Bank amplifies accountability to communities affected by its projects, , ICIJ, <https://www.icij.org/investigations/world-bank/world-bank-amplifies-accountability-to-communities-affected-by-its-projects/> (last visited Jan 26, 2021).

compliance, or intent of compliance, with the allegedly violated Bank procedures and policies to the Executive Directors in the eligibility phase.^{34 35}

Beginning in early 2021, in accordance with the AM, the Panel will notify the AM Secretary in addition to the Executive Directors when it receives a request for inspection. The AM Secretary takes no further action until it is informed that an investigation will proceed, if that is the case. At that point, the AM will proceed to offer a dispute resolution option to the requesters and borrowers, upon approval by the Executive Directors. The purpose of the Dispute Resolution Service is to provide a platform for dispute resolution between requesters and borrowers. This would open the opportunity for direct dialogue between aggrieved parties, mediated by neutral dispute resolution professionals.³⁶

Relationship of the Panel to the World Bank Group and the guarantees of the Panel's impartiality and independence

The Panel responds to claims surrounding projects financed by two arms of the World Bank: the International Bank of Reconstruction and Development (IBRD) and the International Development Association (IDA). The IBRD provides loans to “middle income and creditworthy countries,” while the IDA focuses on “the poorest countries in the world.”³⁷ Projects funded by the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA) arms of the World Bank are held accountable by the Compliance Advisor/Ombudsman.³⁸

³⁴ Diane Desierto, *The 'New' World Bank Accountability Mechanism: Observations from the ND Reparations Design and Compliance Lab*, EJIL: Talk! (2020), <https://www.ejiltalk.org/the-new-world-bank-accountability-mechanism/> (last visited Jan 26, 2021).

³⁵ *AccountabilityMechanismResolution.pdf*, *supra* note 18.

³⁶ *Id.*

³⁷ Enrique R. Carrasco & Alison K. Guernsey, *World Bank's Inspection Panel: Promoting True Accountability through Arbitration*, 41 CORNELL INT'L L.J. 577 (2008).

³⁸ Ivan Leonardo Martinez, *The World Bank Group operations in conflict affected States and the Ruggie Principles: an opportunity for accountability*, 2 Homa Publica - Rev. Int. Derechos Hum. Empres. e:030 (2018), <https://periodicos.ufjf.br/index.php/HOMA/article/view/30562>.

The Panel responds directly to the Board. It does not have the power to recommend or implement measures to remedy issues found by investigations. It is strictly a fact-finding institution.³⁹

The Bank ensures the impartiality of the Panel in a few different ways. Panelists are limited to serving one term, must be independent from Bank Management, cannot be employed by the World Bank following their contributions to the Panel, cannot participate in cases in which they have a personal interest, must wait a minimum of two years if previously employed by the Panel, and can only be removed for cause. Panelists are of different nationalities and are chosen based on their expertise in international development.^{40 41}

The Panel was established to serve as a check to the Bank and to ensure accountability to protect the interest of individuals and communities. To win the trust of the populace, the Panel's independence must be guaranteed. The independence of the Panel has been questionable over the years because of its link to Bank management and the Executive Directors in carrying out its mandate.

The resolution that set up the panel requires that complaints by the affected group be brought to Management before it is brought to the Panel.⁴² The general view has regarded this method as a way of allowing Management to take required measures with regard to the complaints and to save time.⁴³

As earlier noted, the Panel receives and registers complaints from individuals, which is forwarded to Management. Management either acknowledges the complaints and proposes appropriate response measures or disputes the alleged policy violations. The Panel then reports the eligibility of the claim to the Board and recommends investigation of the request or its

³⁹ Barlas and Tassoni, *Supra* note 9 at 478

⁴⁰ Ragazzi, *supra* note 1

⁴¹ Inspection Panel Resolution. Pdf, *supra* note 16.

⁴² Barlas and Tassoni, *supra* note 9 at 483.

⁴³ *Id*

dismissal. The Board determines whether the Panel should investigate a request. The Panel reports the outcome of the investigation to the Management and the Board. The Management proposes the measure that should be taken in response to the investigation and the Board gives the final approval. This process clearly shows the dependence of the Panel on Management and the Board. The Panel is unable to make any decision on its own, as every step is checkmated by Management and the Board.⁴⁴ Overall, the Panel's mandate shows that the effectiveness of the Panel is subject to the activities of the Bank Management. There is a need to change the image of the Panel from one which works for the Bank, because the current role carried out by the Panel reflects more of an internal audit procedure than a legal process.⁴⁵

The borrowing state is a member of the Executive Directors, which serves as the ultimate authority.⁴⁶ This arrangement threatens the level of independence that is required of the Panel. One can anticipate that governments of borrowing nations, who do not always have the same interest as affected communities, would influence Board members to make a decision that is unfavourable to the affected community. Prior to the establishment of the Panel, affected individuals could make appeals to their government seeking redress for harm caused by Bank-funded projects, but the affected individuals often did not trust this process because of the government's desire to push the project along.⁴⁷ The representation of the borrowing state in the final decision-making process undermines the interest of the affected party and makes it lose hope in the mandate of the Panel as one which is capable of holding the Bank accountable.⁴⁸ When individual grievances are brought against the government rather than the Bank, individuals feel uncomfortable expressing themselves to the Panel.⁴⁹ This link has made

⁴⁴ Wong, *supra* note 6 at 504

⁴⁵ Wong, *supra* note 6

⁴⁶ *Id* at 499

⁴⁷ *Id*

⁴⁸ *Id*

⁴⁹ *Id* at 510

some communities reject the role of the Panel. Critics have also expressed their lack of trust in the Panel's proceedings, which they have seen as having political inclination due to the Panel's dependence on the Board.⁵⁰ The independence of the Panel has also been questioned because of the location of the Panel at the World Bank headquarters in Washington D.C. and the funding it receives from the Bank.⁵¹ To an outsider, especially those who have been affected by Bank projects, it is hard to distinguish the role that the Panel plays in making the Bank accountable because of its connection with the Bank. This perception may prevent the affected community from making a request to the Panel.

The Panel's accountability mandate is limited because the mandate focuses on the Bank's compliance with policies and procedures and prevents affected persons from obtaining redress for other harm that has been suffered as a result of the activities of the Bank.^{52[1]}

The Panel is required to recommend whether or not to proceed with an investigation to Management. A major obstacle with this approach is that the Panel is unable to recommend what specifically should be done as result of the investigation. The Panel's recommendation should be substantive because the Panel is in the best position to recommend action based on its knowledge of the investigation itself.⁵³ Management presents remedial action plans to the Panel and the Board just prior to or during meetings. This approach does not give the Panel and the Board the opportunity to consider whether or not the plans address the concerns of the requesters and the findings of the Panel. Elvira suggests that this process is devoid of effective consultations and he states that the Panel should be able to assess the consistency of the remedial action plan with the Bank's policies. This includes participation by the individuals or

⁵⁰ *Id* at 511

⁵¹ *Id* at 510

⁵² Barlas and Tassoni, *supra* note 9 at 493

⁵³ *Id*

affected community, adequate consultation, and evaluation of Management's supervision of remedial action plans.⁵⁴

Many suggest that the Panel's mandate be broadened, making it possible for NGOs to bring requests to the Panel. This is due to public interest issues like environmental protection or the common heritage of mankind, which has been affected by Bank projects. Interestingly, despite the hitches experienced by the Panel, an additional unit to remedy the social and environmental policy violations has been discouraged. There has been a call instead to strengthen the mandate of the Panel, which would include post-investigation control.⁵⁵ The Panel has been considered the only platform whereby affected people are able to raise their concerns against the activities of the Bank.⁵⁶

Despite the limitations that exist, the Panel can still be used as a tool to increase the accountability of the Bank when complainants express their discontent. The Panel process still has the ability to show the adverse effects caused by lending decisions of the Bank, which in effect promotes respect for human rights and the protection of the environment.⁵⁷

The Board has the power to reject the Panel's recommendations, which limits the efficiency of the Panel. Wong suggests that the requirement that the Board approves investigation of the Panel should be scrapped to prevent the politicization of the Panel's process.⁵⁸ The investigation report is not communicated to the requesters before the approval by the Board. The lack of transparency and communication in this process affects the remedial actions recommended by Management, thus failing to address the issues set forth by the claimant. Another limitation to the transparency and accountability is the fact that appeals are not allowed, even when the Panel's reports and action plans do not align with the claimant's

⁵⁴ *Id.*

⁵⁵ *Id.* at 421

⁵⁶ Wong *supra* note 3 at 517

⁵⁷ *Id.*

⁵⁸ *Id.* at 512

concerns.⁵⁹ The independence of the Panel is also questionable with regards to its composition, which makes it significantly different from other juridical mechanisms. The three members of the Panel are elected by the Executive Directors on the recommendation of the Bank's president.^{60 61}

The effectiveness or ineffectiveness of the Panel, compared to other fact-finding, investigative, or adjudicative bodies

The Panel stands as one of the first mechanisms to introduce accountability in international organizations, more specifically within international financial institutions. Many of these institutions have replicated the Panel in attempts to hold themselves accountable for their projects. Regardless of the positive strides made by the establishment of the Panel, some of the shortcomings must be addressed before it is replicated.⁶²

The Panel has been criticized for a wide variety of reasons. One is the inaccessibility of the Panel for affected people. Those who find themselves most adversely affected by Bank projects are often the poor and marginalized. The Panel's reports are published in English, which many affected peoples are not fluent in. Even if they are familiar with English, the process of filing a claim can come across as daunting. The legalities involved are complex and may deter potential requesters. In some cases, affected people are unaware that the Panel exists.^{63 64} When requesters bring issues to the Panel, they often risk intimidation, retaliation, and even imprisonment.⁶⁵

⁵⁹ *Id.* at 513

⁶⁰ *Id.* at 514

⁶¹ Circi, *Supra* note 19 at 4

⁶² Ta and Graham, *supra* note 26 at 142

⁶³ KUMAR, *supra* note 6 at 123-124

⁶⁴ REINVENTING THE WORLD BANK, (2002), <https://www.jstor.org/stable/10.7591/j.ctv3mtb7w> (last visited Jan 26, 2021). at 161

⁶⁵ Martinez, *supra* note.37 at 12

Wong recognizes the Panel as the only platform where individuals can make complaints. He argues that the Panel is not mature and suggests that it raises awareness in the media to ensure that affected individuals are able to have access to the Panel. Language and culture have been considered barriers to accessing the Bank policies. The cost of filing claims has also limited access for local communities. The process has been tagged as one which is highly technical, expensive and time-consuming.⁶⁶ Wong goes on to appreciate the role of the Panel as a stepping stone to the accountability of international financial institutions but notes that it can do better. He further recognizes the necessity of the shift in power with respect to states and their citizens.⁶⁷ He asserts that the traditional roles of the Bank, individual and state need to be reviewed because of the domineering impact of international organizations on states and their citizens. In recognizing this, he notes that the role of the Panel will influence the accountability of multilateral development banks.⁶⁸

Additionally, the Panel has been widely criticized for being limited in its power to enact change. As discussed above, the Panel is a fact-finding institution only. The Board alone has the power to approve action plans, which are proposed by Management. The Panel is incapable of recommending reform measures to the Board or Management and does not have the ability to act on its findings in any way. It cannot even launch an investigation without the Board's approval. Beginning in early 2021, as a part of the new 2020 resolution, the Panel will have the power to monitor whether or not Management delivers the promised assistance to affected communities.⁶⁹

There have been few projects brought to the Panel that have been reformed or fully stopped. This can be attributed to the Panel's limited powers. According to Jonathan Fox, there

⁶⁶ Wong, *Supra* note 3 at 509

⁶⁷ *Id.* at 517, 518

⁶⁸ *Id.* at 518

⁶⁹ World Bank amplifies accountability to communities affected by its projects, *supra* note 19.

were only 14 claims brought to the Panel during its first five years. Just one, the very first claim concerning the Arun III Dam, achieved major concessions (the dam's construction was halted). Of the remaining projects, only three others were granted partial concessions. Though Fox said direct results of the Panel have been "intangible," there have been certain indirect results, such as the empowerment of affected people.⁷⁰

As of January 2021, there have been 149 cases filed with the Panel. The most common major policy issues raised in requests are environmental assessment, investment project financing, consultation/disclosure, and involuntary resettlement. Sub-Saharan Africa has filed the highest number of cases, followed by South Asia and Latin America and the Caribbean.⁷¹

The purpose of the panel is to carry out independent administrative reviews and not judicial proceedings.⁷² This is a major distinguishing factor of the Panel to other adjudicative bodies. There are, however, expectations of reparation which have not been met. Sometimes, the remedy sought by requesters is not granted to them, leaving the harm unresolved.⁷³ This is somewhat different from other adjudicative bodies, which seek to grant the remedy sought for and reparation.

A fundamental distinction between the mandate of the Panel and other adjudicative bodies is that the Panel gives no clear consequence for non-compliance. The mandate of the Panel does not provide for follow up proceedings, hence, when an action has been approved by the Board, the remedy required may not be enforced. In practice, the Board has requested that Management reports on the action plans.⁷⁴

⁷⁰ Fox, *supra* note 1 at 291-92, 295

⁷¹ About the Inspection Panel | Inspection Panel, , <https://www.inspectionpanel.org/about-us/about-inspection-panel> (last visited Jan 26, 2021).

⁷² Elvira, *supra* note 8 at 398

⁷³ Wong, *supra* note 3 at 515

⁷⁴ *Id* at 506

The Panel is considered to be a quasi-judicial body because it carries out some adjudicative function. The role of the Panel in this regard is to ensure compliance with Bank policy, not to remedy the wrongs caused by the breach of international laws.⁷⁵ Generally, individuals are unable to bring complaints before an international court or tribunal. Prior to the establishment of the Panel, if the sponsored state failed to bring a claim against the Bank, there was no recourse against the Bank.⁷⁶ With the establishment of the Panel, this position is no longer the same. The presence of the Panel has shifted the traditional roles which limited individuals from participating in international relations. With the creation of the Panel, individuals are able to request a review of the Bank's compliance with its internal rules.⁷⁷

The establishment of the Panel, according to Daniel Bradlow,⁷⁸ was the first acknowledgement of the fact that international organizations have a non-contractual relationship with private parties which is independent of the organizations or the private actor's relationship with a member-state.⁷⁹ From a legal perspective, the Bank's relationship with affected people is not a formal contract, although the social and developmental role of the bank has created a de facto obligation to the affected people. This obligation led to the establishment of the Panel, which serves as an enforcement mechanism. The establishment of the Panel has empowered local communities to make their voices heard. It has given them the opportunity to demand timely access to information and for accountability of projects that affect them.⁸⁰

Barlas and Tassoni note that the acceptance of the Panel means the Bank agrees to be accountable to private citizens, providing an opportunity for affected people to ensure that the

⁷⁵ *Id* at

⁷⁶ Ta and Graham, *supra* note 26 at 115

⁷⁷ Wong, *supra* note 3 at 499

⁷⁸ Daniel Bradlow, International Organizations and Private Complaints: The Case of the World Bank Inspection Panel, 34 Va. J. Intl. L 553, 160 (1994)

⁷⁹ Barlas and Tassoni *supra* note 9 at 481

⁸⁰ *Id.*

Bank adheres to the social contract expressed in its operational policy framework.⁸¹ The Panel's role in this context is that of reaffirmation and strengthening the social contract.

There is no judicial recourse for the parties that have been affected by Bank-financed projects because the Bank is an international organization and thus has immunity from national courts. According to Barlas and Tassoni, the creation of the Panel has reflected the Bank's desire to give individuals formal legal recognition with rights and obligation in international law.^{82[2]}

As earlier noted, individuals and members of affected communities are able to access the Panel to state their grievances unlike other regional human rights courts, such as the European Court of Human Rights. Victims seeking redress from this institution are usually faced with jurisdiction limitations because individuals, corporations and other non-governmental entities cannot be sued. On the other hand, governments can only be sued if they have accepted the jurisdiction of the court.⁸³ International Criminal Court (ICC) has jurisdiction over extreme violations such as war crimes and genocide.⁸⁴ The jurisdiction of the ICC is quite limited. Although such crimes may arise as a result of a Bank-funded project in a particular country.

Generally, the major difference between the Panel as a quasi-judicial body and other adjudicative and fact-finding bodies is the accessibility it renders to individuals to make complaints. The Panel is more accessible and capable in providing justice than other adjudicative bodies.⁸⁵

⁸¹ *Id.*

⁸² Barlas and Tassoni, *supra* note 9 at 483

⁸³ Ta and Graham, *supra* note 26 at 115

⁸⁴ *Id.* at 114

⁸⁵ *Id.* at 115

Concluding Remarks

The establishment of the World Bank Inspection Panel is a major stride towards the accountability of international financial institutions and international organizations more broadly. The involvement of individuals in the process has made the mandate of accountability spectacular. This development reflects the goal of this establishment in adhering to the World Bank Policies. However, there is still more to be done to ensure that the Panel is effective and efficient in its mandate. The need for the Panel's independence is paramount in carrying out its mandate. Dependence on the Management and Board has characterized the Panel, which has made affected groups and individuals sceptical about the Panel's role in holding the Bank accountable.

To ensure the Panel carries out its role optimally, the clear roles of the Panel must be stipulated without being subjected to the scrutiny and supervision of the Board and Management. The independence of the Panel is a major hurdle that must be overcome to ensure the accountability of the Bank.