

The World Bank as an Enforcer of Human Rights*

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Abstract

Since the 1990s, the World Bank's Inspection Panel and Compliance Advisor/Ombudsman (CAO) have responded to hundreds of human rights complaints filed by or on behalf of project-affected communities. Yet, little is known about complaint outcomes and factors that enhance the likelihood of complaint success. We theorize that complaints involving indigenous communities, or pertaining to involuntary resettlement and severe environmental impacts, will be more likely to result in a favorable outcome due to the Bank's novel policies governing these issues. We also expect that NGO-supported communities are more likely to succeed due to organizational capacity, expertise, and advocacy. We evaluate these expectations using an original dataset of Inspection Panel and CAO complaints (1993-2017). We find strong support for our expectations about indigenous communities, weak support for projects involving involuntary resettlement, and no support for environmentally-risky projects. NGO support is strongly associated with complaint success, may be principally due to screening.

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1 Introduction

The number, strength, and scope of international legal instruments, compliance monitors, and courts have grown considerably since the end of the Second World War (Koremenos, 2016; von Stein, 2018; Hafner-Burton, Mosley and Galantucci, 2019). Human rights courts, in particular, have become increasingly powerful and accessible due to “new-style” design features, such as compulsory jurisdiction and private litigant initiation rights (Alter, 2014; Haddad, 2012). Yet, accountability for human rights violations and other harms has not been, and can not be, solely accomplished through judicial institutions (Lupu, 2013). Access to formal courts is limited by a range of hurdles, including standing requirements and admissibility rules.

Over the past four decades, *quasi*-judicial bodies have proliferated to help fill the accountability gap left by courts, including in the area of human rights (Orentlicher, 2007; Villa-Vicencio, 2000; Zvobgo, 2019, 2020). These mechanisms have jointly received thousands of complaints and often deliver significant relief to complainants, yet we lack a firm understanding of their performance. Notably, scholarship has yet to conduct a systematic quantitative evaluation of two of the most high-profile and pioneering of these quasi-judicial bodies, the World Bank’s Inspection Panel and Compliance Advisor/Ombudsman (CAO), which investigate human rights violations and other harms associated with international development projects. In this paper, we explore the extent to which the World Bank, through these accountability mechanisms, is responsive to complaints about the adverse impacts of its projects at the local level. Understanding responsiveness at the local level helps shed light on human rights gains at the global level.

Since their creation, the Inspection Panel and CAO have heard nearly 250 complaints, extending international administrative law into development finance. Through the Inspection Panel and CAO, the World Bank has definitively established that “international organizations have a legally significant contractual relationship with private parties that is independent of [...] a member state” (Bradlow, 1993, 554). These bodies have been widely copied by other international financial institutions (IFIs): similar accountability mechanisms now operate in at least 15 other development banks, including the Asian Development Bank (ADB), the European Investment Bank (EIB), and the Inter-American Development Bank (IDB) (Accountability Counsel, 2015; Gutner, 1999; Nanwani, 2014). However, until now, no holistic assessment exists regarding the types of complaints brought before them, the conditions under

which complainants prevail, or the types of remedies that complainants receive. In short, these quasi-judicial bodies are being widely replicated with little knowledge of whether or not they function as intended.

The Inspection Panel and CAO are sometimes cited as evidence of the World Bank's increasingly rights-based approach to development and poverty reduction (Okogbule, 2011; Sano, 2000). Scholars have also suggested that the Inspection Panel and CAO enhance transparency, promote accountability, and represent important developments in international administrative law (Benvenisti and Downs, 2009; Bradlow, 1993; Buntaine, 2015; Tignino, 2016). Indeed, the World Bank was the *first* international organization (IO) to effectively tie its hands, submitting to the evaluations of two independent panels of experts, as well as to external monitoring by civil society actors who can file complaints with or on behalf of project-affected communities. And, as our research demonstrates, vulnerable populations can and do find relief and redress through both the Inspection Panel and CAO.

The World Bank has had a long and complicated history with projects involving indigenous peoples, involuntary resettlement, and severe environmental impacts. Following intense criticism from the human rights community in the 1960s and 1970s, the World Bank developed novel safeguard policies to govern projects that (1) involve indigenous peoples (Operational Directive 4.20), (2) cause involuntary resettlement (Operational Directive 4.30), and (3) pose the highest risk to the environment (Operational Policy 4.01). As elaborated below, these policies represent what we might understand as the Bank's strongest 'governing law' and have helped to set the global standard for governance of development finance (Fox, 2000; Sarfaty, 2004/2005). Certainly, the Bank's broader policy framework covers additional issues, for example labor and working conditions in project sites, community access to information, corruption, etc. However, the policies pertaining to indigenous communities, involuntary resettlement, and high environmental risk are much more stringent and provide communities additional protections and entitlements (Fox and Brown, 1998; Sarfaty, 2004/2005). Moreover, these policies were catalyzed by civil society advocates and donor governments who demanded the Bank take these issues more seriously, and these actors continue to monitor closely the Bank's compliance with these policies (Accountability Counsel, 2015; Buntaine, 2015). Thus, we theorize that complaints covering indigenous communities, involuntary resettlement, and severe environmental impacts will be more successful relative to all other complaints because: (1) the stringency of policy in these areas makes violations that require redress more likely, (2) there exists a more explicit framework in which communities and their representatives can couch their

complaints, and (3) the Bank has faced and continues to face intense scrutiny and pressure around these issues. Other issues that lead to complaints but are not targeted by specific operational directives include labor rights violations and economic and cultural damage (See Figure 3).

Similarly, the Bank has had both a conflictual and cooperative relationship with non-governmental organizations (NGOs) (Clark, Fox and Treakle, 2003; Lavelle, 2011). NGO activism played an important role in the creation of the Inspection Panel and CAO and has contributed to the Bank's broadening and strengthening of its safeguard policies (Mallaby, 2006; Shihata, 1994; Woods, 2000; Ziai, 2016). As in international courts and other quasi-judicial bodies, NGOs monitor the World Bank by filing Inspection Panel and CAO complaints with or on behalf of project-affected communities (Buntaine, 2015; Uçarer, 2014). And, we expect that NGO involvement is strongly associated with complaint success. Project-affected communities often lack the capacity to effectively file a formal complaint with an IO like the World Bank and, indeed, many communities may not even know that the Inspection Panel and CAO exist (Hunter, 2003). In contrast, NGOs possess the knowledge, professional expertise, and organizational capacity to be effective co-complainants. We, thus, theorize that NGO involvement increases the likelihood of complaint success. This is likely to happen via two mechanisms: complaint quality and external advocacy. In addition to possessing technical expertise and administrative capacity useful for filing high-quality complaints, NGOs also enjoy the relationships and public profile to advocate effectively outside of the complaint process.

We introduce a new comprehensive dataset covering the universe of Inspection Panel and CAO cases, from their inception through the spring of 2017. The primary empirical contribution of this paper is descriptive: we offer the first holistic portrait of these bodies' performance. Our data cover: (1) the types of actors that bring complaints, (2) the issues raised in complaints (and the types of projects that give rise to them), and (3) the outcomes of complaints and the remedies provided to communities who file successful complaints. Our data also allow us to our test theory regarding the factors that influence complaint success.

Descriptively, we find that environmental damage, economic damage, and involuntary resettlement are the most-frequently raised issues in Inspection Panel and CAO cases, and formal acknowledgements of harm, project change or termination, and compensation are the most-frequently provided remedies. Roughly 50% of complaints garner at least one positive outcome. However, punishment of perpetrators, e.g., host country governments, project partners, or contractors, is exceedingly rare.

Consistent with our theoretical expectations, we find that indigenous project-affected communities are more likely to receive a formal acknowledgment of harm and secure rulings for project change, though they are not more likely to obtain judgments for compensation than other complainants. We also find that complaints alleging involuntary resettlement are more likely to result in an order for compensation, but not in harm acknowledgment or project change. Contrary to expectation, we find no evidence that complaints alleging environmental harm or complaints filed with respect to projects deemed especially environmentally sensitive are more likely to result in a favorable outcome.

We also find that NGO involvement is a strong predictor of rulings for project change and compensation for project-affected communities, though NGO involvement does not enhance the likelihood of communities receiving a formal acknowledgment of harm. These correlations are consistent with our expectation that NGOs capitalize on their expertise in information, leverage, and accountability politics to gain remedies for communities. However, in our interviews, NGO representatives also confirm our expectation that NGOs screen complaints, limiting their support to complaints that they think credibly assert violations of the Bank's social and environmental safeguard policies. Thus, at least part of the positive relationship we observe between NGO involvement and complaint success is driven by this selection effect.

To help assess the extent to which the relationship we observe between NGO involvement and complaint success is driven by NGO expertise and capacity, we conduct a mediation analysis of NGOs' effect on success via complaint quality. We expect that a core mechanism by which NGO expertise and capacity lead to success is the filing of higher quality complaints. We first estimate the effect of NGO involvement on the fulfillment of "complaint fundamentals"—a latent variable that we construct to capture the basic elements that we expect contribute to success. We then estimate the effect of complaint fundamentals on complaint success. As expected, we find that NGO involvement is positively correlated with complaint fundamentals. However, the mediated effect is not statistically significant. Thus, the effect of NGOs on complaint success occurs primarily through other channels—through assistance not reflected in the observable quality of the written complaint. Our interviews suggest that screening and external lobbying are influential for complaint success.

This paper contributes both theoretically and empirically to the scholarship on international courts and quasi-judicial bodies, as well as the business and human rights literature on access to remedy. The Inspection Panel and CAO were created contemporaneously with several "new-style" international

courts and possess many similar features, notably delegated compliance review and enforcement powers, and case initiation by private persons and organizations. Since project-affected communities do not have standing in any court to sue the World Bank for the financing and execution of its projects, the Inspection Panel and CAO were and remain their only formal venue for recourse. Therefore, these bodies deserve to be included in debates on enforcing human rights and increasing access to justice. In addition, we provide the first comprehensive quantitative analysis of quasi-judicial bodies at the intersection of economic development and human rights, and bring them into ongoing debates around the “protect, respect, remedy” principles for business and human rights. This framework has been applied almost exclusively to states and corporations (Davitti, 2016). We extend the framework to encompass IOs, which, as the World Bank has established, are also duty-bound to protect, respect, and remedy harms experienced by private individuals and communities in and around operational sites.

2 The Inspection Panel and CAO: Novel Quasi-Judicial Bodies for Enforcing Human Rights

For decades, the human rights community rebuked the World Bank’s financing and execution of development projects, namely infrastructure and extractive projects that damaged local environments and displaced populations, including indigenous communities. (Fox, 2000; Gutner, 1999; Rich, 1994). Scrutiny and pressure from transnational advocacy groups and donor governments came to a head in the 1980s, culminating in the Bank developing policies to prevent, mitigate, and provide redress for social and environmental harms (Clark, 2002; Mallaby, 2006; Nielson and Tierney, 2003; Shihata, 1994; Woods, 2000; Ziai, 2016). Continuing censure induced the creation of the Inspection Panel and CAO in the 1990s—two novel internal accountability mechanisms designed to respond to complaints made by persons harmed or likely to be harmed by Bank-funded projects (Carrasco and Guernsey, 2008; Mallaby, 2006; Ziai, 2016).

The Inspection Panel was established to respond to complaints regarding projects funded through the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA); that is, public sector projects. And, the CAO was created to respond to similar complaints regarding projects funded through the International Finance Corporation (IFC) and guaranteed through the Multilateral Investment Guarantee Agency (MIGA); that is, private sector projects. Since 1993 and 1999, respectively, the Inspection Panel and CAO have provided a venue for project-affected

communities to communicate the harms they experience, gain public acknowledgment of these harms, and receive relief and compensation. There is also evidence that they shape the Bank's lending behavior (Buntaine, 2015). However, until now, the overall effectiveness of these bodies in granting relief and redress to project-affected communities has been difficult to assess in the absence of comprehensive data on their performance.

2.1 Quasi-Judicial Bodies and Development Finance

The Inspection Panel and CAO are a novel addition to a long list of quasi-judicial bodies with "a mandate to monitor compliance with a body of norms, settle disputes regarding those norms, or make determinations on the basis of investigations" (Tignino, 2016, 242). Other such bodies include truth commissions which inquire into historical political violence, the Aarhus Compliance Committee which assesses international environmental compliance, and the Committee on Economic, Social and Cultural Rights which oversees implementation of the 1966 Covenant (Bissell, 1997; Hayner, 2000; Minow, 1998; Tignino, 2016).

Each of the major regional development banks¹ has attempted to replicate the Inspection Panel and CAO, and single-nation based development banks² have followed suit. The proliferation of institutional "copies" raises the importance of evaluating the "originals". Our findings can serve as a baseline against which scholars can ascertain gains and losses associated with institutional replication. And, the strengths and weaknesses we identify can inform the refinement of analogous bodies.

2.2 Quasi-Judicial Bodies in an Era of "New-Style" International Courts

Though quasi-judicial in nature, the Inspection Panel and CAO resemble in many ways "new-style" international courts (ICs). Indeed, the Inspection Panel and CAO were created contemporaneously with a wave of new-style ICs, including the Andean Tribunal of Justice, the European Free Trade Area Court, and the International Criminal Court. Alter argues that, "New-style ICs reflect the reality that states have tasked ICs with helping to enforce international law, and with reviewing the application of international law by state and international administrative and legislative actors" (2014, 7). The World Bank has similarly tasked the Inspection Panel and CAO with monitoring compliance with its social and environmental safeguard policies and enjoining appropriate reparative acts in cases of noncompliance.

Among the most important characteristics of new-style ICs is the right of private persons and organi-

zations to initiate litigation. This is in contrast to older ICs where the right to initiate litigation is enjoyed exclusively by states. Scholars argue that private actor access increases courts' independence and activity (Alter, 2014; Haddad, 2012, 2018; Tallberg et al., 2014). With the creation of the Inspection Panel and CAO, the World Bank became the first IO to create a forum for private actors to hold IOs accountable for harms created by their operations—a significant development in international administrative law (Hunter, 2003; Macdonald and Miller-Dawkins, 2015; Nanwani, 2014; Keck and Sikkink, 1998). The Bank has empowered these two bodies to make decisions that host country governments, and even the Bank itself, may dislike but that project-affected communities and their advocates may prefer.

2.3 Limits of the Inspection Panel and CAO

Despite newly-developed formal access to IOs via the Inspection Panel and CAO, real access is limited (Buntaine, 2015). Worldwide knowledge of the bodies is low and the bodies themselves have failed to seek out project-affected communities and advertise their dispute resolution and compliance review functions (Accountability Counsel, 2015; Hunter, 2003). In addition, scholarship problematizes the Inspection Panel's inability to grant and oversee relief to project-affected communities *independent* of Bank Management and the Board of Executive Directors (Carrasco and Guernsey, 2008). This contrasts the CAO which, in addition to investigating noncompliance and issuing recommendations, may independently facilitate dispute resolution between the relevant parties and supervise the implementation of compliance. Nevertheless, as elaborated in the analysis, the work of both the Inspection Panel and CAO has led to formal acknowledgments of harm, orders for project change, and compensation.

3 Drivers of Complaint Success

This paper provides a systematic empirical evaluation of the Inspection Panel and CAO's performance, including an examination of the relief and compensation mandated, and the conditions under which complainants are most likely to be successful. We begin our investigation by developing expectations about the types of communities and complaints that are most likely to prevail. Specifically, we expect that complaints covered by the Bank's most stringent safeguard policies—that is, complaints related to indigenous communities, involuntary resettlement, and severe environmental impacts—will be more likely to gain favorable outcomes from the Inspection Panel and CAO.

3.1 Stringent Safeguards

The World Bank was the first development finance organization to establish a set of policies to prevent, mitigate, and provide redress for social and environmental impacts created by its projects. Chief among these are the Bank's policies on indigenous peoples, involuntary resettlement, and projects that pose severe environmental impacts (Mallaby, 2006; Nanwani, 2014; Sarfaty, 2004/2005; Shihata, 1994; Woods, 2000; Ziai, 2016). This innovation was prompted by adverse impacts of large-scale infrastructure and extractive projects, and proceeded to catalyze the development of similar policies across several development banks, including the ADB, EIB, and IDB. These rules expand the scope of possible violations, and, by extension, increase the likelihood of meritorious complaints and favorable outcomes for complainants.

3.1.1 Indigenous Communities

Following criticism regarding projects' adverse impacts on indigenous communities in the 1960s and 1970s, the Bank developed operational policies on the rights and entitlements of indigenous project-affected communities. In 1982, the Bank developed Operational Manual Statement 2.34, a novel framework to: (1) recognize and protect indigenous people's land rights and (2) provide essential services to indigenous peoples, including health and education. In the following years, the Bank hired a team of specialists in indigenous rights and, coordinating with the International Labor Organization, revised its policy on indigenous peoples. The revised policy, Operational Directive 4.20, broadened the Bank's definition of indigenous peoples, expanding protections to communities not formally recognized as indigenous by their governments. According to OD 4.20, any person or community that claims to be part of an indigenous group is so considered by the Bank. Unlike in the past, these individuals and communities do not have to be formally recognized by their states. This has alleviated the problem of powerful actors not recognizing these communities in an effort to deny their rights and entitlements (World Bank, 2011).

Most recently adopted is Operational Policy (OP) 4.10, the World Bank's hallmark policy on indigenous peoples, which holds the Bank to a higher standard when operating in lands and territories traditionally owned, customarily used, and/or occupied by indigenous peoples. Bank-funded projects operating in these contexts require, among other things: (1) a culturally appropriate community consultation and consensus evaluation, (2) equitable sharing of project-related profits, and (3) identification of alternative project designs which avoid or mitigate harm, including physical relocation of communi-

ties (World Bank, 2013b). For clarity, each set of policies described represents *an additional layer of protection* for indigenous communities relative to other communities.

3.1.2 Involuntary Resettlement

Historically, involuntary resettlement has been among the Bank's best-documented failures (Clark, 2002; Webber and McDonald, 2004). Displacement causes economic harm, namely the loss of shelter, assets, and income (Shihata, 1994). It can also create physical and psychic harms, such as "loss of identity, culture, and customary livelihoods" (World Bank, 2013b). Thus, it has been among the priorities for global civil society actors and donor governments seeking to regulate governance of development finance. Similar to the Bank's indigenous peoples policies, OD 4.30 holds the Bank to a very high standard for projects that may involve involuntary resettlement.

In general, involuntary resettlement is to be avoided. However, when it cannot be avoided, Bank policy requires that resettlement is minimized and communities indemnified. More concretely, OD 4.30 requires that communities receive relocation assistance and residential housing, or be granted sites to set up their own houses and agricultural systems. In addition, displaced communities' prior standard of living must be restored, if not improved, in their new location. Moreover, OD 4.30 requires that displaced persons share in project-generated benefits (World Bank, 1990). Of note, project-displaced communities are the only non-indigenous communities who are entitled to such benefits under Bank policy.

3.1.3 Severe Environmental Impacts

Finally, perhaps the most-publicized Bank failure is environmental damage generated by certain projects (Gutner, 1999; Rich, 1994; Shihata, 1994). For decades, transnational advocacy groups documented severe environmental impacts of infrastructure projects—for example, the Sardar Sarovar projects on the Narmada River in India and the Biobío hydroelectric project in Chile. These project failures reinforced the Bank's poor reputation for human rights (Clark, Fox and Treacle, 2003; Lavelle, 2011). In response, the Bank developed environmental safeguards, culminating in its environmental assessment policy, OP 4.01 in 1989. At the heart of OP 4.01 is a system of environmental screening that the Bank undertakes to: (1) evaluate potential risks to the environment, (2) identify possible improvements to project selection, design, and implementation such that adverse environmental impacts are either prevented, minimized, or mitigated, and (3) map a plan to compensate communities for adverse impacts.

At the design stage, World Bank projects are placed into one of four environmental categories—A, B, C, or FI—depending on the nature and scale of the project, its location, the nature of the risks posed, and the predicted severity of environmental impacts. Category A captures those projects that are “likely to have significant adverse impacts that are sensitive, diverse, or unprecedented” (World Bank, 2013a). Relative to Category B, C, or FI projects, Category A projects require a full, comprehensive environmental impact assessment (EIA). This involves consulting independent experts to: (1) collect detailed data on baseline site conditions, (2) analyze the costs and benefits of the project as currently designed, and (3) recommend feasible alternatives. Category A projects additionally require timely, prior consultations with communities and local NGOs, as well as throughout the project life-cycle. There are many ways OP 4.01 can be violated and violations addressed by the Inspection Panel and CAO. We illustrate just two such ways. First, if a full EIA is not executed for a project, complainants may secure a judgment for project change. Second, if environmental impacts are not adequately prevented or mitigated for an especially risky project, complainants may secure an order for compensation.

3.1.4 Stringent Safeguards Hypotheses

Collectively, these policies place stringent demands on the Bank when interfacing with indigenous communities, executing projects that force resettlement, and implementing projects predicted to have severe environmental impacts. All else equal, it should be more difficult for projects to meet these elevated standards. Thus, we expect complaints pertaining to indigenous communities, involuntary resettlement, and severe environmental impacts to be more successful, first because the stringency of policy in this area makes violations requiring redress more likely and, second, because there exists a more explicit framework in which communities and their representatives may couch complaints.

As we show in our descriptive statistics, 23% of complaints were submitted by indigenous communities, 25% allege involuntary resettlement, and 47% involve projects with a high predicted environmental impact. Some complaints fall into two or all three of these categories, and 33% fall into none. We expect that each of these three factors has an independent and positive effect on the probability of complaint success.

Hypothesis 1a *Complaints submitted by or on behalf of indigenous communities are more likely to be successful.*

Hypothesis 1b *Complaints alleging involuntary resettlement are more likely to be successful.*

Hypothesis 1c *Complaints about projects with a predicted high environmental impact are more likely to be successful.*

3.2 NGO Advocacy in the Complaint Process

In addition to developing expectations about the types of communities and complaints that are most likely to prevail, we develop and test theory about the influence of NGOs in the complaint process. We extend Alter's (2014) altered politics framework, moving from the domain of international courts to international quasi-judicial bodies, to generate expectations about the role of NGOs. Similar to the courts that Alter (2014) evaluates, the Inspection Panel and CAO enforce compliance with Bank policy through alliances with domestic and international actors. The Inspection Panel and CAO's compliance partners, among them NGOs, are motivated by substantive goals, such as preserving a clean and healthful environment, compensating involuntarily resettled communities, or restoring damaged cultural heritage sites. Compliance partners can also be motivated by self-interest and by normative commitments to general human rights principles (Alter, 2014, 53). Whatever their distinct motivations, NGOs' advocacy in the Inspection Panel and CAO processes should enhance the likelihood of success, as these organizations draw on their expertise in information, leverage, and accountability politics to help deliver successful outcomes for project-affected communities.

We expect that NGOs support communities in producing and filing high-quality formal complaints, while also leveraging their public profile and long-term relationships with the Bank, donor governments, and other stakeholders to advocate outside the formal complaint process. It is also likely that NGOs screen complaints and are more likely to support cases that they believe are more meritorious and/or more likely to prevail. This screening plays an important role in our empirical evaluation, as it influences how we interpret the relationship between NGO involvement and complaint success.

3.2.1 Complaint Quality

The most direct way that we expect NGOs to increase the likelihood of complaints success is through the resources and technical expertise they provide to help communities file high-quality complaints. Project-affected communities—people who have been dispossessed of their lands and their livelihood, whose environments have been degraded, and who have suffered physical harm—are comparatively less likely

to possess the material, informational, language, and human resources to independently and successfully lodge a quasi-legal complaint, whereas NGOs do possess these resources (Islam and Morgan, 2011). NGOs can assist project-affected communities in clearly connecting the harms experienced to discrete violations of World Bank operational policies—arguably the greatest barrier to complaint success (Uçarer, 2014). The president of a Latin American environmental NGO (ENGO) that has supported complainants at the Inspection Panel and CAO confirmed to us that NGOs offer technical expertise otherwise unavailable to project-affected communities, devoting resources so that communities “understand the technical aspects of the projects and their impacts.” (Names and organizations are included for interviewees who gave their express permission. Names and organizations are omitted for interviewees who requested to remain anonymous. Our interview protocol was declared exempt by the University of Southern California’s Institutional Review Board under study number UP-17-00438.)

What’s more, NGOs have established networks from which they may draw to assist project-affected communities. Apolinar Tolentino, the Asia Pacific regional representative of the labor rights organization, Building and Wood Workers International (BWI) reports that NGOs draw on diverse contacts when preparing a complaint. The first time BWI prepared a CAO complaint, the organization sought advice from the OECD’s Trade Union Advisory Council. Tolentino affirms, “They have the experience. Since this [was] our first experience it help[ed] to have a colleague coach us.” In turn, Vladlena Martsynkevych, former regional director of the National Ecological Centre of Ukraine (NECU), shared with us that Danish colleagues, working on a human rights court case in the Ukrainian courts, alerted NECU of an agribusiness project-affected village that could benefit from the organization’s assistance. NECU’s inquiry into the community led to the identification of communities in seven other villages affected by the same project. Martsynkevych contends that the complaint was successful because it involved so many communities which, of course, was only possible with NGOs at the helm.

3.2.2 External Pressure

In addition to being experts in information politics, many NGOs are experts in leverage and accountability politics, and have been and are catalysts for change, including at the World Bank (Keck and Sikkink, 1998; Uçarer, 2014; Woods, 2000). NGO pressure partly explains the Bank’s adoption of a strategy for poverty reduction in the 1990s that includes “the promotion of safety nets and targeted social programs to support those who fall through the cracks” (Fox and Brown, 1998, 493). And, as previously discussed,

NGO advocacy contributed to the creation of the Inspection Panel and CAO, themselves. Given that NGOs have successfully pressured the World Bank to modify its strategy for development, NGOs are likely to similarly pressure the Bank, via the Inspection Panel or CAO, for relief and redress for specific project-affected communities.

Moreover, unlike most project-affected communities, NGOs are “repeat-players” (Galanter, 1974). While it may be possible to silence a vulnerable community, it is much more difficult to marginalize a high-profile local, national, and/or international actor, such as an NGO. Our interviewees corroborate our expectation that the Inspection Panel and CAO “pay attention” when complainants are supported by NGOs. In addition, because NGOs often interface with the World Bank at the project, national, and/or international level, the Bank is more responsive to NGO concerns. Indeed, the Bank encourages NGO participation in the “project cycle,” including in project design and evaluation (Fox and Brown, 1998).

Hypothesis 2 *Complaints submitted by or with the assistance of NGOs are more likely to be successful.*

3.2.3 Selection into NGO Involvement

While NGO involvement may have a positive effect on complaint success, we also recognize that NGOs may be more likely to select cases that already have a high likelihood of success. Given limited time and resources, NGOs must distinguish meritorious cases or causes from less- or non-meritorious ones and thereby utilize resources efficiently (Ron, Ramos and Rodgers, 2005).³ Since NGOs’ credibility and effectiveness rely on the accuracy and relevance of the information they furnish, it is essential to find and support project-affected communities with “good facts” (Barnett and Finnemore, 2004; Keck and Sikkink, 1998). This might involve, for example, NGOs supporting project-affected communities who raise issues for which there is a specific World Bank operational protocol. We interviewed the director of an international workers’ rights organization, who described to us how the organization first “determine[s] whether there are grounds to claim that *the actions violate the safeguards* that the institutions have adopted” before proceeding to support a complaint (emphasis added).

Some NGOs only support project-affected communities’ complaints after conducting their own investigation. For example, NECU representative, Vladlena Martsynkevych, reports that NECU collects information using open sources on persons harmed or likely to be harmed by Bank-funded development projects. The organization then contacts the relevant individuals/community, requesting supporting doc-

uments and other evidence of harm. After receiving this information, the organization then visits the site to confirm the accuracy of the claims and supporting evidence. Thus, it is likely that some of the cases that proceed to the Inspection Panel and CAO *without* NGO support do so because NGOs have investigated project-affected communities' claims and have themselves estimated that they lack merit.

In the empirical sections that follow, this selection process shapes how we interpret the strong relationship we observe between NGO involvement and complaint success. It also motivates the additional mediation analysis that we conduct.

4 Research Design and a New Dataset

The data we introduce cover the universe of cases brought before the Inspection Panel and CAO since their inception. We capture all cases concluded by May 2017, a total of 239 cases. These data include nearly 100 variables covering: (1) characteristics of the project under scrutiny, (2) characteristics of the affected community and complaint filers, (3) complaint fundamentals, (4) nature of the alleged harms and identity of the perpetrators, (5) progress of the complaint through the Inspection Panel and CAO processes, and (6) final outcomes of the complaint. The data provide great descriptive value and allow us to test our hypotheses regarding the drivers of complaint success.

To evaluate our hypotheses, we use information on the groups bringing complaints (i.e. data on indigenous communities and NGOs) and the issues they raise to predict several different types of complaint success, notably harm acknowledgment, project change, and compensation, while controlling for a range of potentially confounding factors, such as the nature of the project that gave rise to the complaint. Because we expect that NGOs strategically select the cases they support, we then use a combination of quantitative and qualitative evidence to assess the importance of complaint quality for our results. Quantitatively, we evaluate whether NGO involvement leads to higher quality complaints, as measured by our latent variable, *Complaint fundamentals*, and if complaint quality, in turn, leads to complaint success. Qualitatively, we draw on elite interviews with representatives from NGOs that support Inspection Panel and CAO complaints. These interviews help us ascertain whether or not these NGOs screen cases for merit before assisting with complaint filing. The interviews also help us understand in what manner and to what degree they apply pressure on the World Bank outside of the formal proceedings of the Inspection Panel and CAO. The following sections describe the main variables used in the analysis. More detailed

descriptions and summary statistics for all variables used in the analysis are provided in the supplementary appendix at the JHR Harvard Dataverse site.

4.1 Complaint Success

Complaint success is captured by three variables: *Harm acknowledged*, *Project change*, and *Compensation*. *Harm acknowledged* refers to the Inspection Panel or CAO's formal acknowledgment of project-related harm suffered by complainants. While harm acknowledgment is a minimalist form of success, its delivery by a formal authority can be an important part of the healing process for survivors of human rights violations and other harms (e.g. Hayner, 2000, 135-140). *Project change* captures amendments or alterations ordered by the Inspection Panel or CAO, for example the introduction of additional environmental safeguards and monitoring. *Project change* also includes project termination. *Compensation* includes monetary and other economic reparations (e.g., land parcels for involuntarily resettled communities) to be paid to project-affected communities, either by the Bank or by the host country government at the request or instruction of the Bank. *Compensation* takes a value of 1 only if compensation is ordered in response to a complaint. Sometimes this occurs when compensation is added to a project where it had not been previously planned, and sometimes this occurs when a complaint forces payment of planned compensation that was, for some reason, withheld prior to the complaint.

4.2 Stringent Safeguards and NGO Involvement

Indigenous community is a dichotomous indicator that takes a value of 1 if a complaint is filed by or behalf of an indigenous community. *Involuntary resettlement* is a binary variable that captures whether involuntary resettlement is alleged in a complaint. *High environmental risk* takes a value of 1 if the project was originally classified under Environmental Category A—that is, determined to pose the most severe environmental impacts. *NGO involvement* is a binary variable that captures whether at least one NGO filed or signed the initial complaint made to the Inspection Panel or CAO.

4.3 Complaint Fundamentals

We estimate a latent variable, *Complaint fundamentals*, to capture fulfillment of seven items that we expect make complaint success more likely: (1) raw data, including maps, (2) personal testimony by project-affected persons, (3) petitions, (4) typed complaints, (5) complaints written in English, (6)

references to specific Bank operational protocols, procedures, and/or performance standards that complainants claim has been violated, and (7) a description of the link between the alleged Bank policy violation and the harm suffered by the community or individuals bringing the complaint. The latent variable model allows us to estimate complaint fundamentals even for observations missing one or more of our indicator variables, and allows us to estimate both the value of the latent trait and the uncertainty of that estimate. Summary statistics for the seven indicators used to estimate *Complaint fundamentals*, the latent variable model's assumptions, and information on item difficulty and discrimination parameters are provided in the supplementary appendix.

4.4 Descriptive Statistics: Assessing the Big Picture

The Inspection Panel and CAO were created to enforce policies for mitigating social and environmental impacts of World Bank projects, and to provide relief and redress to communities when said policies are violated. Figures 1 to 5 illuminate these central issues, specifically what types of complaints are lodged and what types of outcomes complainants secure. As more and more development finance institutions attempt to replicate the Inspection Panel and CAO, it is crucial that we gain a comprehensive and accurate picture of the Inspection Panel and CAO's performance, allowing these newer bodies to both build on the strengths of the Inspection Panel and CAO, and, perhaps, make adjustments to address weaknesses.

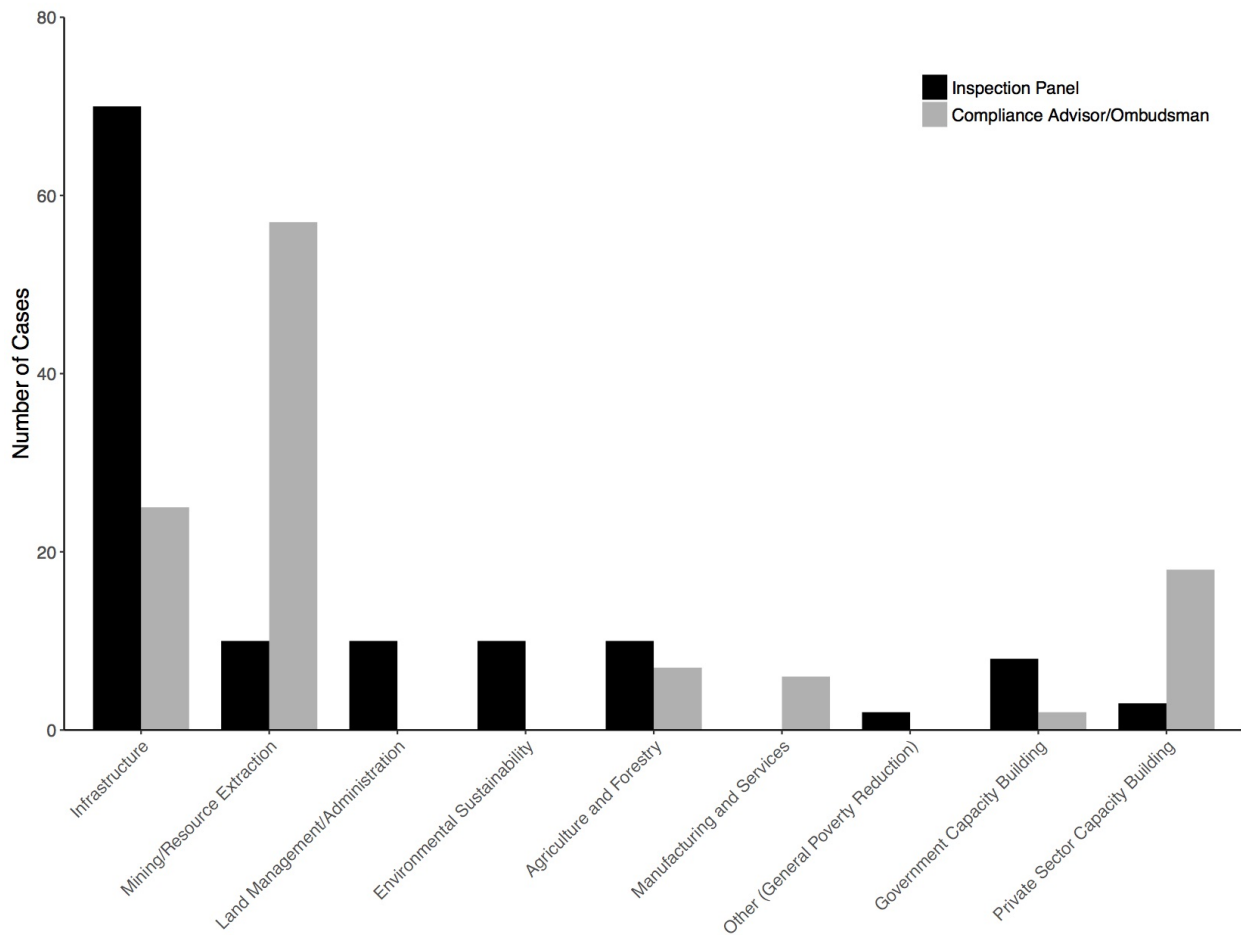
The distribution of cases by geographic location and by project- and issue-type illuminate where the Inspection Panel and CAO work and the type of cases they hear. Figure 1 shows that complaints are concentrated in the global South, with India, Peru, Argentina, Kenya, and Uganda as the top five origin sites for complaints. This broadly comports with the global distribution of World Bank projects.

Figure 1: Geographical Spread of Inspection Panel and CAO Cases



As shown in Figure 2, two project types dwarf all others in terms of complaints filed with the Inspection Panel and CAO: infrastructure projects trigger 56% of Inspection Panel complaints and 22% of CAO complaints, while mining or resource extractive projects trigger 49.5% of CAO complaints and 8% of Inspection Panel cases.

Figure 2: Projects Triggering Inspection Panel and CAO Complaints



As reported in Figure 3, environmental damage is the most-raised issue in both the Inspection Panel and CAO. Economic damage takes second position in the Inspection Panel, while involuntary resettlement takes second position in the CAO. Finally, labor rights violations and involuntary resettlement respectively take third position in proceedings before the Inspection Panel and CAO. This generally comports with the qualitative literature on the Inspection Panel and CAO, which has focused primarily, though not exclusively, on environmental damage and involuntary resettlement (Clark, 2002; Fox, 2000; Rich, 1994; Webber and McDonald, 2004).

Figure 3: Primary Issues Raised in Inspection Panel and CAO Complaints

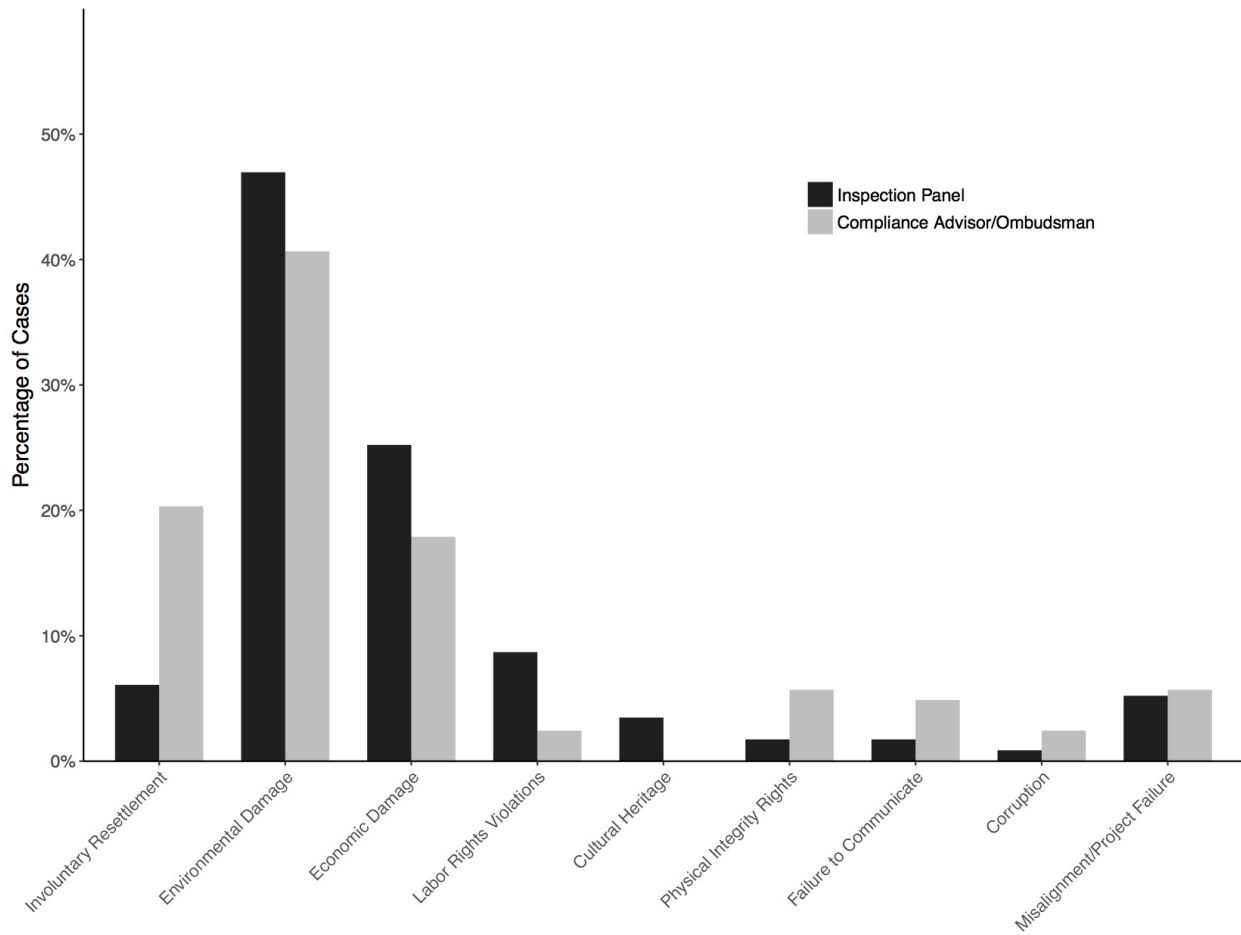


Figure 4 describes the overall effectiveness of the Inspection Panel and CAO in delivering specific types of remedies. Notably, 42% of Inspection Panel cases and 61% of CAO cases result in some type of positive outcome for complainants. With respect to differences between the Inspection Panel and CAO, a greater percentage of CAO cases result in a formal acknowledgment of harm, a determination of Bank noncompliance, and judgments to halt and change projects, while a greater percentage of Inspection Panel cases result in an order for compensation to project-affected communities. We believe that this is primarily due to the Inspection Panel handling more involuntary resettlement cases than the CAO, as this type of project-related harm requires compensation.⁴

The Inspection Panel and CAO offer some form of relief to a high percentage of complainants. In many cases this relief is not trivial, with projects ordered to be revised or halted and/or compensation paid. In short, these institutions are not toothless and they do not appear reluctant to judge in favor of

communities that lodge complaints with the Bank.

Figure 4: Success at the Inspection Panel and CAO

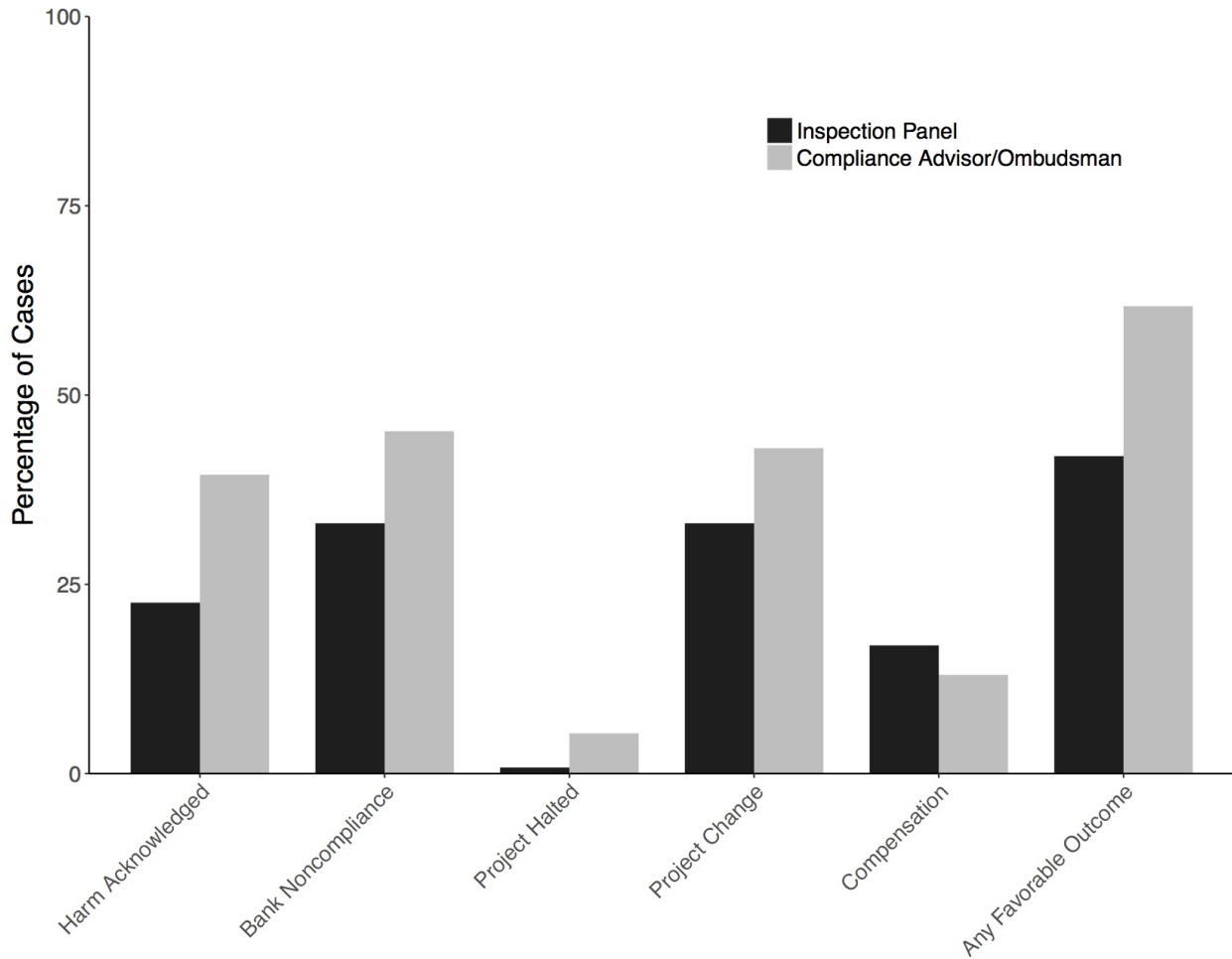
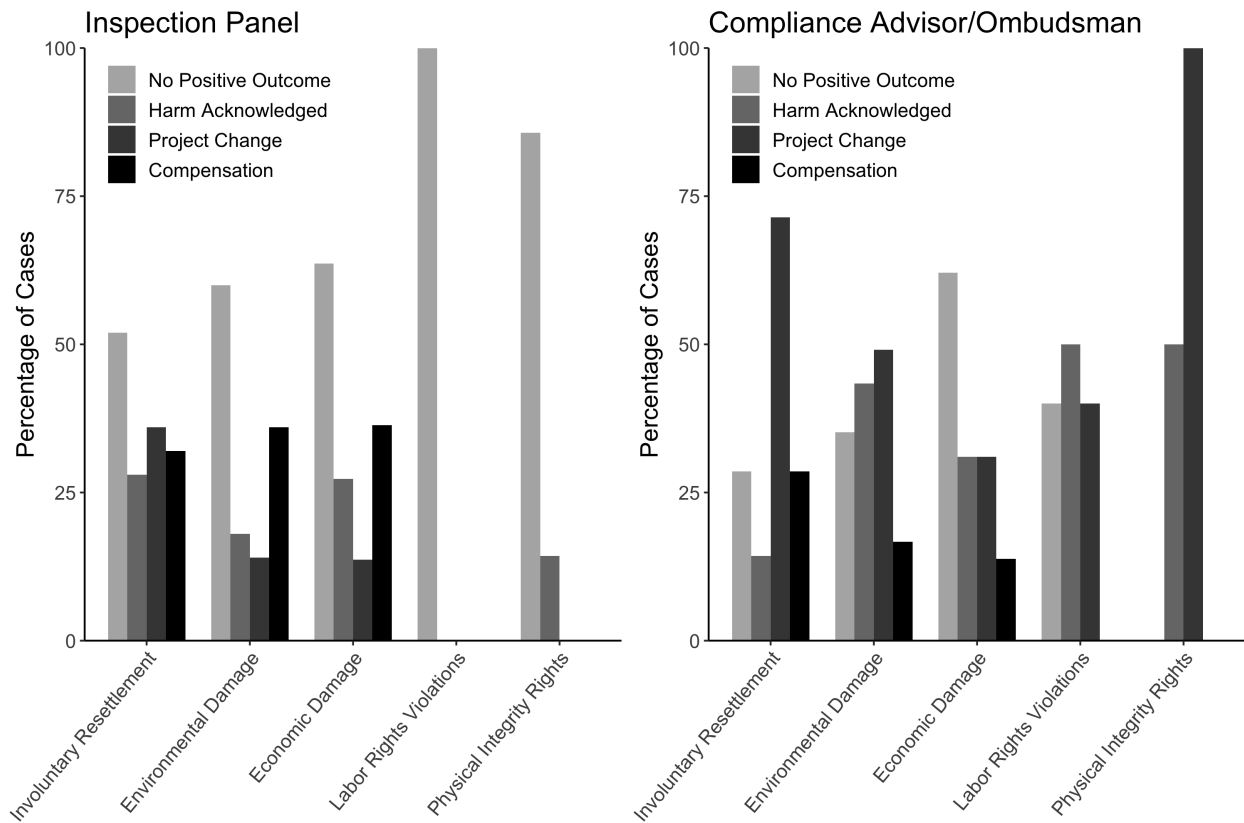


Figure 5 shows a more granular distribution of outcomes across issue areas. In both Inspection Panel and CAO cases, rulings for compensation are most likely in cases alleging involuntary resettlement. They are also sometimes made in response to claims of economic or environmental damage. Physical integrity rights violations represent the most severe allegations in our data; however, these cases are also few in number, making it difficult to generalize about them.⁵

Figure 5: Outcomes by Primary Issue Raised



5 Hypothesis Testing

We theorize that complaints are more likely to be successful when an indigenous community is involved (H1a) or when communities file complaints about involuntary resettlement (H1b) or projects that posed an especially high environmental risk (H1c). We also expect that complaints are more likely to be successful when an NGO is involved (H2). We evaluate these hypotheses using *Indigenous community*, *Involuntary resettlement*, *High environmental risk*, and *NGO involvement* to predict our three main measures of complaint success. Models 1 and 2 in Table 1, below, present the results of logit regressions with *Harm acknowledged* as the dependent variable. Models 3 and 4 predict *Project change*, while Models 5 and 6 predict *Compensation*. In each model we control for a range of factors that may be causally related to complaint success and correlated with our variables of interest, including project characteristics and the region in which the alleged violation took place.⁶

We first analyze the relationship between complaints covered by stringent safeguards and the likelihood of complaint success. Consistent with Hypothesis 1a, we estimate a strong positive effect for

the involvement of indigenous communities on complaint success. This effect is statistically significant ($p < 0.05$) with respect to *Harm acknowledged* and *Project change*, but not with respect to *Compensation*. To estimate the substantive size of these effects, we evaluate the effect of indigenous involvement while holding all other variables constant. Substantively, the predicted probability of gaining a formal acknowledgment of harm for a typical indigenous community is roughly double that of a similar non-indigenous community, 46% instead of 26%⁷. The difference is similar with respect to judgments for project change: the predicted probability for a typical indigenous community gaining an order for project change is 64%, compared to 30% for a comparable non-indigenous community. Finally, the estimated probability of compensation orders rises to 23% for indigenous communities compared to 13% for all others.

The estimated effect of involuntary resettlement allegations is positive and statistically significant with respect to *Compensation* ($p < 0.05$). It is also positive, though not statistically significant, with respect to *Harm acknowledgement* and *Project change*. Thus, we find weak support for Hypothesis 1b. If we hold all other variables constant, the predicted probability of securing a ruling for compensation for complaints alleging involuntary resettlement is roughly triple that of complaints that do not allege involuntary resettlement, 37% instead of 11%. The predicted probability of project change rises less, from 39% to 45%. In contrast to these results, we estimate a negative relationship between involuntary resettlement cases and harm acknowledgment, with the predicted probability falling from 34% to 28%.

Inconsistent with Hypothesis 1c, the environmental sensitivity of projects is not strongly correlated with complaint success, nor are allegations of environmental harm. Their respective estimated effects are substantively small and statistically insignificant. In the supplementary appendix we estimate the effect of *environmental risk* without controlling for issue area (including environmental damage), and vice-versa, and still find no effect for either high environmental risk or environmental damage allegations.

Consistent with H2, we find that *NGO involvement* is also a positive predictor of all three types of complaint success, but this effect is only statistically significant ($p < 0.05$) with respect to *Project change* and *Compensation*, and not with respect to *Harm acknowledged*. NGO involvement increases the probability of gaining rulings for project change from 32% to 47%, while more than tripling the probability of orders for compensation from 7.5% to 25%. Finally, the estimated effect on harm acknowledgment is smaller but still non-trivial, rising from 28% without NGO involvement to 37% with NGO involvement.

Table 1: Stringent Safeguards, NGO Involvement, and Outcomes

	DV = Harm Acknowledged		DV = Project Change		DV = Compensation	
	(1)	(2)	(3)	(4)	(5)	(6)
Complainant Characteristics						
Indigenous Community	1.189** (0.460)	0.997* (0.478)	1.442** (0.436)	1.434** (0.460)	0.161 (0.482)	0.758 (0.612)
NGO Involvement	0.466 (0.343)	0.473 (0.347)	0.752* (0.366)	0.771* (0.376)	1.660* (0.658)	2.012** (0.735)
Project Characteristics						
High Environmental Risk	0.275 (0.384)	0.292 (0.376)	0.0840 (0.339)	0.107 (0.340)	0.188 (0.473)	0.276 (0.531)
Infrastructure	0.0684 (0.398)	0.161 (0.405)	0.442 (0.419)	0.444 (0.435)	0.0508 (0.593)	-0.172 (0.584)
Mining/Resource Extraction	-0.279 (0.441)	0.0269 (0.498)	0.413 (0.479)	0.446 (0.528)	0.0228 (0.664)	-0.681 (0.795)
Bank Commitment (log)	-0.161 (0.147)	-0.161 (0.164)	-0.439** (0.135)	-0.427** (0.135)	0.149 (0.171)	0.144 (0.167)
CAO	0.918* (0.370)	0.832+ (0.429)	0.382 (0.350)	0.309 (0.395)	-0.0121 (0.537)	-0.173 (0.596)
Alleged Harms and Perpetrators						
Involuntary Resettlement	-0.282 (0.476)	-0.251 (0.472)	0.310 (0.459)	0.321 (0.456)	1.858** (0.599)	1.960** (0.658)
Environmental Damage	0.191 (0.372)	0.127 (0.368)	0.148 (0.414)	0.144 (0.422)	0.419 (0.490)	0.681 (0.477)
Economic Damage	-0.445 (0.340)	-0.381 (0.338)	0.0996 (0.351)	0.126 (0.351)	0.803 (0.493)	0.672 (0.492)
Labor Rights Violations	0.0298 (0.697)	0.107 (0.666)	0.148 (0.691)	0.0815 (0.676)	1.477* (0.752)	1.169 (0.714)
Physical Integrity Rights Violations	-0.276 (0.509)	-0.315 (0.529)	-0.912+ (0.486)	-0.927+ (0.489)	-1.398+ (0.844)	-1.406 (0.859)
Bank is Alleged Perpetrator		0.00278 (0.437)		-0.181 (0.409)		-1.154* (0.491)
Region						
Africa and Middle East		-0.573 (0.491)		-0.0827 (0.475)		1.838* (0.754)
Asia		-0.123 (0.415)		-0.159 (0.420)		1.617* (0.745)
Europe		-0.674 (0.578)		-0.314 (0.460)		1.655* (0.802)
Constant	1.293 (2.702)	1.527 (3.040)	6.139* (2.435)	6.161* (2.534)	-6.989* (3.192)	-7.742* (3.481)
Observations	220	220	220	220	221	221

All models report standard errors clustered by country.

+ $p < 0.10$, * $p < 0.05$, ** $p < 0.01$

Overall, we estimate consistently positive effects for indigenous community involvement, involuntary resettlement, and NGO involvement. While the effects are not statistically significant for all outcomes, the results show that complaints in these two categories are systematically more likely to receive at least one positive outcome for complainants. The following section parses the NGO effect more finely.

5.1 Drivers of NGO Success: Complaint Quality, External Advocacy, and Selection

We expect that NGOs increase complaint success via professional expertise and organizational capacity, which yield higher-quality written complaints. We also anticipate that NGOs apply pressure on the Bank, both internal and external to the formal complaint process. However, it is also possibly the case that NGOs are more likely to support complaints they consider promising. Thus, we investigate whether NGO efforts actually increase the quality of filed complaints, and whether increases in complaint quality allow NGOs to move the needle on complaint success beyond simply picking winners.

We focus our quantitative analysis on complaint quality because this the most direct way in which we expect NGOs to have an effect. More pragmatically, complaint quality is also more readily observable than external pressure; external pressure can take many forms, some of which are intentionally hidden, such as back-channel lobbying.

5.1.1 Complaint Fundamentals

We evaluate the influence of NGO expertise and resources on complaint quality by estimating the effect of NGO involvement on “complaint fundamentals,” or the observable characteristics of complaints that we expect influence the prospects of complaint success. While these fundamentals do not capture every potential avenue through which NGOs may influence complaint quality, if NGOs make important contributions to complaint quality, one observable implication is that NGO-supported complaints should contain more of these fundamental elements.⁸

Figure 6 depicts fulfillment of four complaint fundamentals in cases with and without NGO involvement. The relationship here is striking: across each indicator, NGO-supported complaints are more likely to contain elements that we believe are fundamental to complaint quality. The differences are particularly stark with respect to the inclusion of raw data and citations to specific World Bank policies. In the absence of NGOs, complaint fundamentals are markedly lacking.

Figure 6: NGO Involvement and Complaint Fundamentals

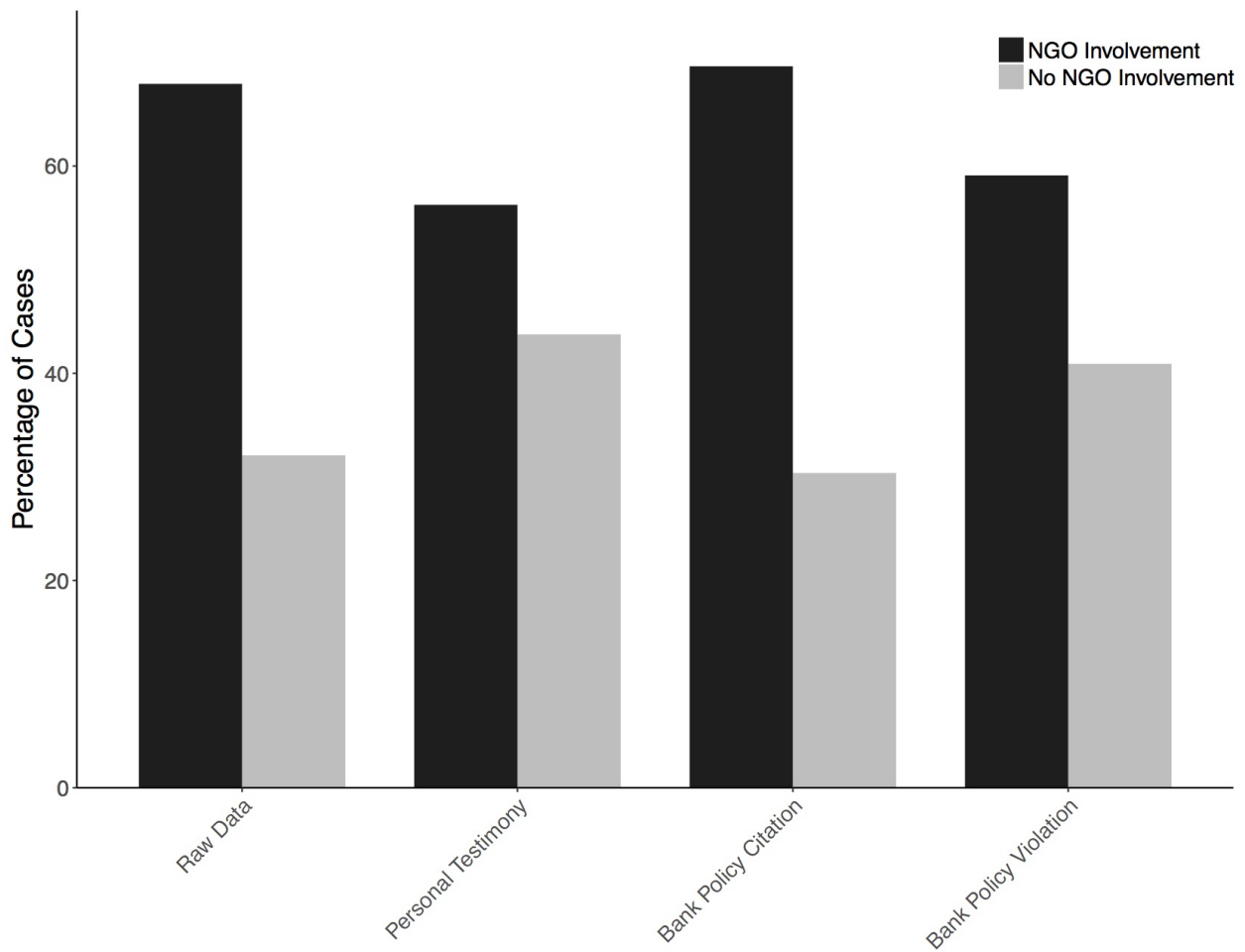


Table 2 evaluates whether *NGO involvement* is a strong predictor of *Complaint fundamentals* when we control for other factors. Consistent with the descriptive pattern shown in Figure 6, we estimate a positive relationship between *NGO involvement* and *Complaint fundamentals*, though this relationship is not statistically significant at a conventional error level. In contrast, we find that indigenous communities and projects with a high environmental risk are positive and statistically significant predictors of the outcome ($p < 0.05$). Indigenous-filed complaints and complaints about projects with a high environmental risk are both more likely than other types of complaints to include two particular elements of complaint quality: citations to specific bank policy and a link between that violation and the harm experienced. 63% of indigenous complaints cite bank policy *and* link the alleged policy violation(s) with experienced harms. Similarly, 55% of complaints about projects with a high environmental risk cite bank policy *and* link the alleged violation(s) with harms. In so doing, communities strengthen their claims to relief and

redress. This is consistent with our theoretical argument that the specificity and stringency of Bank policies—with respect to indigenous communities and environmentally-sensitive projects—make it easier for them to obtain complaint success.

Table 2: NGO Involvement and Complaint Fundamentals

	DV = Complaint Fundamentals	
	(1)	(2)
NGO Involvement	0.123 (0.102)	0.198 ⁺ (0.113)
Indigenous Community	0.243* (0.100)	0.265* (0.103)
Infrastructure	-0.119 (0.135)	-0.183 (0.149)
Mining/Resource Extraction	0.112 (0.164)	0.0363 (0.174)
High Environmental Risk	0.311** (0.119)	0.341* (0.143)
CAO	-0.435** (0.122)	-0.520** (0.131)
Involuntary Resettlement	0.0384 (0.114)	0.0196 (0.139)
Environmental Damage	0.184 (0.125)	0.244 ⁺ (0.140)
Bank Commitment (log)		-0.0210 (0.0458)
Economic Damage		-0.0275 (0.117)
Labor Rights Violations		0.333* (0.159)
Physical Integrity Rights Violations		0.0567 (0.133)
Constant	-0.264* (0.124)	0.103 (0.830)
Observations	150	134

Standard errors in parentheses

All models report standard errors clustered by country.

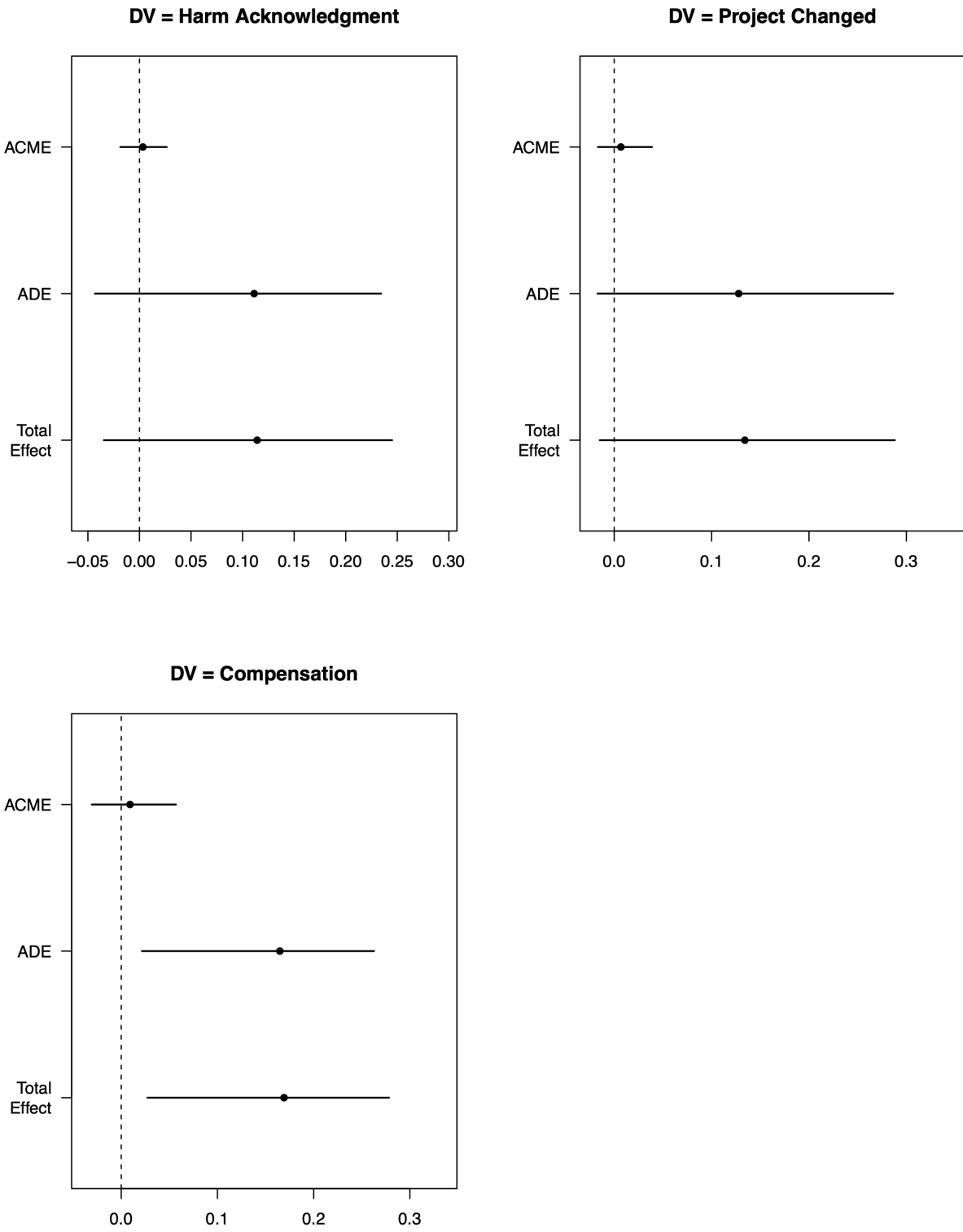
⁺ $p < 0.10$, * $p < 0.05$, ** $p < .01$

The causal mediation results presented in Figure 7 allow us to assess whether NGO involvement influences the likelihood of complaint success through its effect on complaint fundamentals, or whether NGO involvement operates independently of these complaint fundamentals.⁹ Displayed in the figure are

the estimated average direct effect (ADE) of NGO involvement on complaint success and the estimated average mediated effect (ACME) of NGO involvement. We do not find support for a mediated effect of NGO involvement on success before the Inspection Panel and CAO. The ACME is positive for each success outcome; however, the effects are small and are not statistically significant. In contrast, the estimated direct effects are much larger, albeit only statistically significant with respect to compensation. The direct effect includes all channels other than complaint fundamentals, including selection and external advocacy.

Taken together these results show that, while NGO involvement is positively associated with complaint fundamentals, these fundamentals do not account for most of the observed relationship between NGO involvement and complaint success.

Figure 7: Maximum effects of NGO Involvement (Mediated through Complaint Fundamentals) on Harm Acknowledgment, Project Change, and Compensation



To better understand the nature of the direct effect of NGO involvement on complaint success, we conducted a series of interviews with representatives from NGOs that supported recent cases in our data. Consistent with merit screening, NGO representatives consistently report that they screen prospective cases for merit before agreeing to support a complaint. Interviewees also describe a range of technical abilities they bring to the table, consistent with our expectation that NGO involvement increases complaint quality. In addition, several NGO representatives highlighted NGOs' ability to apply public pressure on the World Bank, which they believe compels the Inspection Panel and CAO to take certain complaints more seriously, even though the mechanisms are technically independent of the rest of the Bank. To give two examples, a representative from a workers' rights organization reports,

"I think unfortunately maybe they do pay more attention when it has some international attention and attention from an organization [...] which has some international clout and reputation."

The president of the Latin American ENGO highlighted the organization's pursuit of high-profile cases in which it can lobby the World Bank directly and indirectly, via donor countries "where there was interest to lobby against the project."

Our results do not allow us to rule out the possibility that the relationship between NGO involvement and complaint success is primarily driven by selection. However, there is some evidence that NGO involvement improves complaint quality, even if we do not find that complaint quality, in turn, drives complaint success. Our interviews suggest that the work that NGOs undertake to enhance the likelihood of complaint success goes well beyond simply supporting communities in drafting better complaints. As future work seeks to understand the mechanisms driving NGO success (and dissecting what types of NGOs make the most effective community advocates), it will be necessary to look beyond the formal documents submitted.

6 Implications

Our results offer three main implications. First, quasi-judicial bodies deliver important outcomes to vulnerable populations, including redress for human rights violations and other harms. Given that private persons do not have standing in formal courts to sue the World Bank for the financing and execution of its projects, and that the organizations in the World Bank Group may fail to provide relief and redress of

their own accord, the Inspection Panel and CAO may be the most effective venues for project-affected communities to seek relief and redress.

Our research motivates inquiry into other quasi-judicial bodies that seek to protect human rights and promote good governance and, in particular, dispute resolution and compliance review mechanisms in regional and national development banks. While quasi-judicial bodies receive less attention than formal courts, such as the Inter-American Court of Human Rights, these venues may be equally important, if not more important, for providing substantive relief to some of the world's most vulnerable populations.

Second, NGO support is strongly correlated with success at the Inspection Panel and CAO. While at least some of the positive relationship we observe between NGO involvement and complaint success can be attributed to NGOs screening cases on merit, we estimate that NGO involvement leads to higher scores on complaint fundamentals (though this difference is not statistically significant). We also offer qualitative evidence that NGOs provide advocacy support to complainants outside of the formal Inspection Panel and CAO processes, which may also have an effect. Reassuringly, we do not find evidence that less-professional complaints have lower success rates, suggesting that the Inspection Panel and CAO can and do accommodate low-capacity complainants. However, the high correlation between NGO involvement and complaint success suggests that NGOs may, nonetheless, be necessary for the Inspection Panel and CAO to provide effective relief, notably compensation, to communities.

Third, safeguard policies for specific groups and issue areas have mixed effects—safeguards related to indigenous communities and involuntary resettlement appear to enhance accountability, while environmental safeguards seem less effective. We speculate that environmental safeguards may fail to yield higher complaint success rates for reasons unique to the nature of environmental complaints—particularly that some degree of environmental change may be, from the Bank's perspective, an acceptable consequence of economic development. Thus, grey areas exist in which communities may reasonably perceive negative environmental effects from projects that nonetheless comply with Bank guidelines.

More broadly, we hope that the patterns in outcomes we observe in the Inspection Panel and CAO will inform the development and refinement of cognate bodies at other IFIs. While they often order project change or enjoin compensation, the Inspection Panel and CAO are notably lacking in their ability to punish actors responsible for human rights violations and other harms, be they host country governments, their partners, or contractors.¹⁰ This is where a concerted campaign to apply the “protect, respect, remedy” framework to IFIs, and the World Bank in particular, may be valuable for project-affected communities.

In addition, IOs in general and IFIs in particular should contemplate whether the policies against which compliance is assessed provide elevated protections for the groups they believe to be most vulnerable in the contexts in which they operate. Lastly, these organizations should assess whether their compliance mechanisms are designed in ways that make NGO representation necessary for complaint success in many contexts and, if so, whether there exists the requisite NGO infrastructure to meet the needs of potential complainants.

7 Conclusion

Since their creation in the 1990s, the Inspection Panel and CAO have adjudicated nearly 250 human rights complaints in more than 60 countries. During this period, other development finance institutions have emulated the World Bank, creating similar dispute resolution and compliance review mechanisms. Inspection Panel and CAO cases focus predominantly on three issue areas: environmental damage, economic damage, and involuntary resettlement. Thus, they address issues of serious and substantive concern to project-affected communities, meeting global civil society and donor countries' stated goals. Our study demonstrates that these bodies are not toothless: More than a third of complaints result in an order for the alteration or abandonment of the project under scrutiny, and 15% of complaints result in orders for compensation for project-affected communities.

This paper offered the first comprehensive quantitative analysis of the operation and effectiveness of development finance institutions' accountability mechanisms, enlarging our understanding of quasi-judicial bodies. We examine the ways in which factors such as the individual harms raised in complaints, NGO advocacy in the complaint process, project type and size affect outcomes of interest, notably the Bank's acknowledgment of harm, and orders to change or terminate projects, and to compensate project-affected communities.

We theorized that complaints are more likely to succeed if they are covered by the Bank's stringent safeguards for indigenous communities, involuntary resettlement, and/or severe environmental impacts, or when complainants are represented by an NGO. In our regression analysis, we find strong support for our expectations about indigenous communities, weak support for our expectations about projects involving involuntary resettlement, and no support for our expectations about environmentally-sensitive projects. We also find that NGO representation is strongly associated with complaint success. In a

more detailed analysis, we then unpacked and clarified the mechanisms through which NGO involvement affects complaint success. We find evidence that NGO involvement enhances complaint quality, but also that NGOs screen complaints, seeking to support those they estimate meritorious.

Much remains to be accomplished in this research area. In particular, our research provides a benchmark for evaluating gains and losses associated with institutional replication of the Inspection Panel and CAO. Do institutional copies function similarly to the originals on which they are modeled? Additionally, do successful cases brought before the Inspection Panel and CAO enhance the security of human rights in the broader domestic realm, either by empowering individuals and communities, or sending signals to governments and firms that accountability is possible? Finally, what are the effects of accountability mechanisms on the IFIs that created them? One interviewee representing a workers rights organization has found partnerships between NGOs, within and without Inspection Panel and CAO complaints, useful for “improv[ing] language in the safeguards and implementation procedures.” When we consider the universe of venues through which individuals and communities may seek justice for human rights violations and other harms, *and* through which the landscape of development finance and international law can be changed, the Inspection Panel and CAO deserve consideration as serious and effective, if still flawed, institutions.

Notes

¹See the ADB, EIB, and IDB, as well as the African Development Bank (AfDB) and the European Bank for Reconstruction and Development’s (EBRD).

²See, for example, the Brazilian Development Bank, the Canadian Office of the Extractive Sector Corporate Social Responsibility, the Japan Bank for International Cooperation, and the U.S. Overseas Private Investment Corporation Office of Accountability.

³NGOs may also concentrate their efforts on communities whose experienced harms correspond to their professional experience and organizational missions—communities for which they can more expertly advocate. Ron, Ramos and Rogers (2005) argue and find that NGOs have incentives to pursue causes and campaigns that promote their “brand” and inspire public confidence or trust. Thus, cases within NGOs’ issue portfolios may be more likely to gain NGO support than complaints in other issue areas. In our empirical analysis of the effects of NGO involvement we control for issue area.

⁴Involuntary resettlement is raised in 25 complaints to the Inspection Panel compared to 7 complaints to the CAO.

⁵Physical integrity rights violations constitute the primary alleged harm in only 9 complaints.

⁶Dummy variables are included for each region with The Americas as the omitted region. The indicator variables for different alleged harms capture whether each category of harm was among those raised in a complaint. Many complaints allege more than one type of harm and we code up to three per complaint.

⁷Substantive effects are calculated based on Models 1, 3, and 5.

⁸In estimating complaint fundamentals and conducting the mediation analysis, we use only those cases with the original filing available. This limits us to 150 of our 239 total cases. Perhaps surprisingly, the availability of original filings is only weakly correlated with the year in complaints were filed (Pearson’s $\rho = 0.06$).

⁹The full regression results for the mediation analysis are provided in the supplementary appendix.

¹⁰To our knowledge, the only case of perpetrator punishment is a Uganda Transport Sector Development Project case in which the Government of Uganda provided compensation to survivors of sexual assault perpetrated by road workers contracted by the Ugandan National Road Authority (UNRA) and prosecuted those responsible. In turn, the World Bank suspended new lending to Uganda while conducting a review of their entire lending portfolio in the country. This case is not in our data because it was not concluded by May 2017.

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