

External Review Team  
Artraud Hartmann, Cindy Petitt, and Eduardo Abbott  
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[externalreview2024@gmail.com](mailto:externalreview2024@gmail.com)

## **Reflecting on Shortcomings of the World Bank's Dispute Resolution Service**

As civil society organizations that have supported communities around the world to use dispute resolution processes at Independent Accountability Mechanisms (IAMs), we welcome the External Review Team's recommendations for strengthening the World Bank's Accountability Mechanism - the Inspection Panel and the Dispute Resolution Service (DRS). This statement focuses primarily on the implementation of dispute resolution since the reforms to accountability at the World Bank added the DRS.

Several of our organizations pushed for the modernization of the Inspection Panel's toolkit and still believe that communities should be able to access both dispute resolution and compliance review to address concerns with World Bank-supported projects. Our organizations supported the first few cases to go to DRS – [Uganda: Second Kampala Institutional and Infrastructure Development Project \(KIIDP-2\)](#) and [Nepal: Nepal-India Electricity Transmission and Trade Project and its Additional Financing](#) – and cases where dispute resolution was offered, [Bolivia: Santa Cruz Road Corridor Connector Project \(San Ignacio - San Jose\)](#) and [Tanzania: Resilient Natural Resource Management for Tourism and Growth Project \(REGROW\)](#). Our experience with the case handling process thus far demonstrates that meaningful changes need to be made to the Accountability Mechanism, Dispute Resolution Service, and the interaction between compliance review and dispute resolution functions. This review should result in a system that is more respectful of communities' agency and leads to the effective resolution of grievances. Additionally, we agree with the ERT that a comprehensive external review should be conducted within 24-months of the effectiveness of the DRS.

We have identified the following challenges that need to be addressed:

### **Accessibility and Requester Choice**

As discussed in the External Review Team's draft report, requesters, the very people who submit a request for accountability, should have the opportunity to clearly express their desire for the Inspection Panel to conduct compliance review and to therefore reject a dispute resolution process. In this case, the AM Secretary should not then offer a borrower government the option of dispute resolution. Doing so ignores and disrespects requesters' agency to decide what type of accountability process to pursue, and it also puts impacted requesters at risk of retaliation from a government that has an interest in engaging in dispute resolution.

In the Bolivia case, the AM secretary offered the Bolivian government dispute resolution after the requesters had clearly rejected the option, which put the requesters at risk of retaliation and caused the Bolivian government to delay the Inspection Panel's access to the country for a site visit. The same issue arose in Tanzania, where the government publicly expressed to the media that it will be pursuing the DR process though the requesters had clearly rejected the option. This caused great concern to the requesters, who have chosen to remain anonymous throughout the process due to fear of retaliation. They were made to believe that their names would be disclosed and they would be forced to engage with the government, resulting in personal risks to their safety. This also added an unnecessary delay in moving forward with the investigation.

We agree with the ERT's recommendation: **The AM Secretary should offer DR not concurrently to both parties, but first to the requesters. If the requesters after 5 working days decide to proceed with the compliance investigation, they should be allowed to do so without any further interruption. In such a case, AM Secretary should not provide information about DR nor offer DR to the other party.**

### **Power Imbalances Throughout the Dispute Resolution Process**

In the Nepal and Uganda cases, we also noted several instances where the DRS and its mediators' actions exacerbated power imbalances between the communities and the government. In the Uganda case, there were several instances where the mediators and DRS seemed to defer to the timelines and directions of the government. As discussed in a previous [statement](#), power imbalances were especially stark towards the end of the process, where the government seemed to be directing the process of reaching and signing a final agreement and pushing desperate community members to accept any sort of deal. This situation underscored the need for the DRS to adopt a more balanced approach, ensuring that the community's voice is equally heard and respected throughout the process. In the Nepal case, the process did not appear free and fair, with mediators appearing to favor the position of the government.

To address these issues, the DRS **should implement stronger measures to manage power imbalances**. This includes continuous consultations with communities, ensuring their concerns and timelines are given equal weight. Additionally, mediators should be empowered to take a firmer stance when necessary to prevent one party from dominating the process. The DRS should ensure that no single party can unilaterally determine the scope or direction of a dispute resolution meeting, and mediators should be trained to recognize and mitigate power imbalances actively.

Furthermore, the DRS should establish clear protocols to ensure that any decisions made, especially those regarding the finalization of agreements, are done with the full participation and consent of all involved parties. This includes providing ample time for community members to review and understand the terms of any agreement and offering independent legal and advisory support to help them navigate the process.

### **Exacerbation of Community Conflict**

It is not uncommon for individual community members to have differing interests in a dispute resolution process. Mediators must be attuned to these differing interests and proceed in a manner that does not exacerbate community conflict. Unfortunately, in the Nepal and Uganda cases, the DRS and mediators exacerbated tensions in the affected communities. In Uganda, when the elected representatives agreed to terminate the dispute resolution process, the DRS still proceeded with the process with other members of the community.

In Nepal, the agreement facilitated by the DRS has created division within the community and jeopardized communal harmony. It is our perception that the DRS worked with some community members to the exclusion of others, and today, original requesters who opposed elements of the DRS-facilitated agreement or did not sign the agreement face retaliation by other members of the community, as well as by the government. Additionally, we are concerned that the DRS, in an effort to get an agreement, favored the views of community members who were not the original requesters to the Inspection Panel complaint.

Community conflict can be particularly exacerbated in circumstances where the dispute resolution process is restricted to an “All or Nothing” prospect, which increases the stakes of the process. This was [unfairly](#) the case in Nepal and Uganda where the AM Secretary refused to allow the prospect of unresolved issues transferring to the Inspection Panel for investigation, despite the fact that the final DRS procedures allow for partial agreements and for unresolved issues being transferred to the Inspection Panel. Going forward, in addition to allowing for partial agreements, we agree with ERT’s recommendation that **a provision should be introduced into the AM operating procedures that requesters who originally submitted the request to IPN but then subsequently left the DR process should be given the option of proceeding with a compliance investigation after the DR agreement has been signed. The DRS outcome report should state how many of the requesters who submitted the request for registration signed the DR agreement.**

### **Timelines for Dispute Resolution**

Although concrete timelines for IAM processes are important for ensuring predictability and facilitating the timely resolution of grievances, the strict 18-month timeline for the DRS process put undue pressure on the parties in Uganda to reach an agreement. In that case, this pressure was exacerbated by the unfair limit on partial agreements. In circumstances where communities are negotiating with powerful governments, the pressure to reach any agreement, even if it doesn’t fully address grievances, is made even more stark as the deadline approaches.

**We agree with the ERT report’s recommendation to allow for timeline extensions to 20 months, though there may be circumstances where even more time could be constructive.**

**The 24-month review of the DRS should further explore the timelines issue and what additional flexibility is needed.**

### **Transparency**

As discussed by the ERT's draft report, the DRS falls far behind other independent accountability mechanisms on the transparency of DR agreements. Again, given power imbalances, transparency of agreements helps keep the parties accountable to the agreement and is important for institutional accountability. In our experience, the DRS seems to confuse transparency of the overall agreement with transparency of commitments to particular individuals (such as compensation amounts), which individuals might prefer to have kept confidential. We agree with the ERT draft report's recommendation that **reporting should specify the issues to which the parties have agreed and those to which they have not.**

We are also concerned that the DRS has no fair and predictable process in place for how decisions on confidentiality of agreements should be reached in the first place. In the Uganda case, the decision to keep the specific terms of the agreement confidential was made in the final few days of the negotiations, without some requesters' involvement and without involvement of requesters' advisors. Again, given power imbalances, it's obvious that some communities will feel pressured to agree to confidentiality of an agreement even when it is against their best interests. **We call on the 24-month review to evaluate how these decisions have been reached in practice.**

### **Monitoring**

Reaching an agreement is just one step of ensuring the full resolution of grievances. Active monitoring of the full implementation of the agreement is crucial to ensure that each commitment in the agreement is fulfilled in a meaningful way. For cases so far, the DRS has not been transparent about what monitoring—if any—it does. As advisors to the communities in Nepal and Uganda, we have asked for status updates on the agreements' implementation, and the DRS has not provided us with answers sufficiently. The DRS has at times ignored our requests and at others have offered vague and incomplete answers. The ERT draft report recommends a full substantive conclusion report after the DRS concludes monitoring. **We agree and also call for the DRS to issue interim monitoring reports, drafted in consultation with the parties, so that there will be more transparency into the implementation of the agreement, and course correction can happen if need be.**

### **Role of the Accountability Mechanism Secretary**

As we reflect on the shortcomings of the World Bank Accountability Mechanism's dispute resolution processes thus far, we see the scope and mandate of the Accountability Mechanism Secretary to have contributed to the problems. The root of the problem is the 2020 board

resolutions, which establish the AM Secretary position. The board resolutions list a mix of roles for the AM Secretary, which range from substantive to administrative: For example, being tasked with offering dispute resolution to parties and drafting the report transferring a case from DR to the Inspection Panel on one hand, and overseeing the Inspection Panel's resources on the other hand.

In practice, it has felt to us that the AM Secretary is more or less acting as the head of the dispute resolution process, with a surprisingly high level of involvement in the Uganda and Nepal cases. For example, the AM Secretary's decision to restrict the option of unresolved issues going to the Inspection Panel and as well as the problematic offers of dispute resolution in the Bolivia and Tanzania cases.

This presents at least an appearance of a conflict of interest, and perhaps a real one, where the face of the overall Accountability Mechanism is also partial to the dispute resolution process and has an interest in seeing as many cases go to DR and reach an agreement as possible.

**The ERT's draft report should have considered whether the role of the AM Secretary should exist at all and if so, what its mandate should be.** We consider the role to be largely redundant and thus would support the elimination of the role. Of the options proposed by the draft report, we prefer Option 3, which would split the Inspection Panel and the DRS into separate entities. We expect that this option would make the AM Secretary role unnecessary.

#### **Additional issues for the 24-month Review**

The issues above are non-exhaustive, and the 24-month review of the DRS should comprehensively examine other issues affecting dispute resolution at the Bank, including:

- Selection of mediators
- Development and signing of a framework agreement
- Respecting the role of representatives and advisors
- DRS support for studies and experts to support the dispute resolution process
- Communication with parties
- Perceptions of partisanship of the DRS toward government parties
- Information sharing, access to information, and fact finding
- Retaliation management
- Role of the Accountability Mechanism Secretary in dispute resolution processes
- Coercion of parties to sign dispute resolution agreements
- Introduction of new participants at the signing of agreements
- Effects of the DRS process on local judicial processes and other avenues for justice

## **Conclusion**

We again commend the World Bank Board for initiating this review of the accountability system at the World Bank and the External Review Team for its examination of some of the challenges with the system so far. As advisors to communities who have used the mechanism, we stand ready to provide additional insights into the implementation of the ERT's recommendations and the review of the DRS. We hope to soon see a system that better respects community agency and better facilitates justice.

Sincerely,



Accountability Counsel

Bank Information Center

Lawyer's Association for the Human Rights of Nepal's Indigenous Peoples (LAHURNIP)

Oakland Institute

Witness Radio

## **Supporters**

Bretton Woods Project

Buliisa Initiative for Rural Development Organisation

CEE Bankwatch Network

Fundeps

Green Development Advocates\*

International Accountability Project

Jamaa Resource Initiatives

Lumière Synergie pour le Développement

MenaFem Movement for Economic Development and Ecological Justice  
Oyu Tolgoi Watch  
Peace Point Development Foundation-PPDF  
Rivers without Boundaries

\* Supporting communities in the [Cameroon: Nachtigal Hydropower Project \(P157734\) and Hydropower Development on the Sanaga River Technical Assistance Project \(P157733\)](#) case.

### **Previous Statements:**

[Joint Statement on World Bank Accountability Mechanism's Decision to Limit Application of Operating Procedures](#)

[Acknowledging Community's Agreement while Raising Concerns with World Bank's Dispute Resolution Service](#)

[One Year Later, Justice is Delayed: A joint statement on the implementation of the KIIDP-2 Kawaala Community Agreement](#)

[Breaking Alert: Barely a year after signing the remedy agreement, World Bank Project-Affected Persons \(PAPs\) receive fresh land eviction threats](#)

[World Bank Under Fire: Investigation Launched into Bank Financed REGROW Project in Tanzania](#)

[Redefining Impartiality: Advocating for a Community-Centered Approach to Accountability Mechanisms](#)