Learning Processes in International Accountability Mechanisms

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Citizen engagement at the international level has experienced a dramatic growth rate in the last decade. This article will explore some of the roots of that development – whether social, technological, or political – but focus primarily on how a highly diffuse process of growth has, in fact, developed feedback mechanisms among citizens and institutions to accelerate the growth in effectiveness of citizen engagement. As is well known from citizen engagement at all levels – local, regional, national, or beyond – there must be rapid and interactive sharing of results of institutional change to move onto a more effective plane of action.

In brief, there is a limited history of citizen engagement at the international level. Growing out of European political history of the seventeenth century, at the Treaty of Westphalia, there was no accountability to citizens above the national level. The enshrinement of the nation-state sealed off options for citizens to seek recourse beyond their national government for 300 years. The cracks in that ceiling came only with the broad ideals laid out by the United Nations Charter, with language borrowed from the national constitutional documents about the rights of men and women outside their national identities. The movement to negotiate the Universal Declaration of Human Rights led to lofty declarations initially but little impact on international and national institutions. As activists learned in subsequent decades, the UN was effective in enunciating principles, but in order to get anything done, an alternative set of institutions was required. As a result, the growth of accountability on human rights came about at the regional level (European and Inter-American courts/commissions for human rights) where national governments were more willing, under pressure, to cede some limited access for citizens to a supra-national body. In response to those opportunities, a varied but limited set of civil society organizations sprang up irregularly across the globe to play a part in that opening in the system.

The second great wave is the subject of this article: the emergence of environmental civil society organizations as global actors, in quest of arenas in which to affect policy and decision-making above the level of national governments. Perhaps it could have been anticipated that the rising consciousness of the earth as a single ecosphere would have been a stimulant for such activism. The image of this planet, taken by people orbiting the globe in spacecraft, transformed the mental understanding of many citizens focused only on their own community and country. The values that informed the environmental movement were more global than those of the human rights community; the latter was inevitably circumscribed by the powerful influence of culture for interpretation of the role of those rights in history and a vision of the future. The environment, while imbedding some cultural values, was driven even more by biology – a universal body of knowledge that easily transcended both nation-state and cultural region. The key question, then, became one of where to focus the energy mobilized from citizens to change international practice.

The civil society organizations picked an unlikely target: multilateral financial institutions. The best known of these institutions, the World Bank, was only one part of a set of autonomous international organizations, with regional equivalents located in Asia, Africa, Europe, and the Latin America. For civil society, they were attractive targets owing to their reputed influence over policymaking in the 100+ governments of the developing world where civil society was finding it difficult to get political traction. Most countries where a major economic development challenge remained were reluctant to commit scarce resources to environmental policies and programs. They were also, by and large, societies where citizen engagement above the local level was far less developed than in the more advanced economies of the world. On both scores, the civil society organizations found it frustrating in their attempt to globalize their impact on issues that, from their perspective, were inherently global. But conditions were about to change.

In the early 1990s, several of the NGOs with international linkages watched for an opportunity, especially in the run-up to the Rio Earth Summit of 1992. One such opportunity came in the form of the Sardar Sarovar Project in India, a massive dam to be built on the Narmada River with involuntary displacement of well over 100,000 people. After extensive protests, the World Bank agreed to commission an independent investigation of the charges against the project, with the review chaired by Bradford Morse. [Sardar Sarovar, 1992] The outcome was a disaster for the Bank, especially when the Board attempted to suppress the findings. The NGOs then had their *cause celebre*, one that encapsulated both environmental and social issues, as well as broader problems in the realms of transparency and accountability. The Bank's Board of Executive Directors reacted with alarm, passing a new policy with a presumption of transparency, and creating a mechanism for accountability through a standing Inspection Panel (IPN), independent of Bank Management and reporting only to the Board itself. The IPN opened for business in 1994, and began a record of service that embraced 10 major cases in the first four years, 26 by the end of 2002, and 30 before 2004 ended. [Umana, 1998]

With the onset of active cases before the IPN, two developments immediately caught the attention of stakeholders. First, the Resolution of the World Bank Board to establish the Panel was clearly flawed, reflecting lessons learned from the Sardar Sarovar case that did not always translate well when dealing with other countries and development sectors. Second, other multilateral financial institutions decided that they should copy the World Bank's action in establishing the Panel, even though as legally independent institutions they could design their accountability processes in a different way. Citizens and NGOs were thus faced with a dual challenge: how to ensure that changes to the World Bank IPN were indeed positive, from their points of view, and to attempt to improve the accountability practices at other institutions. Let me address each in turn, as each required a different kind of learning process.

A range of international NGOs rapidly created links among themselves and with the IPN. This included Friends of the Earth International and its local affiliates, Center for International Environmental Law, Bank Information Center, Both Ends, and others. They broadcast information about the IPN to their networks in developing countries to facilitate filing of requests for inspection, and also provided feedback to the IPN about aspects of the mechanism and the Bank's attitude that were undermining the achievement of transparency and accountability. In practice, the operations of the IPN unavoidably aroused the ire of the World

Bank Executive Directors from borrowing countries, because the process of bringing World Bank-financed projects into line with current policies fundamentally required changes of practice by the borrowing governments and implementing agencies. Most governments did not relish the idea of their indigenous civil society bypassing national recourse mechanisms in order to bring pressure from the World Bank to bear on project implementation practices. Providing citizens with supranational institutions for redress of grievances inevitably erodes the sovereignty of national governments, and the developing country shareholders of the Bank quickly came to the conclusion that the IPN was a bad development.

The impact of this rapid change of attitude was that any reform of the IPN mechanism could not come through re-opening of the constituting Resolution, for a majority of the Directors might vote to abolish it altogether. Instead, improvements would have to be sought through "clarifications" of the Board Resolution, the first occurring in 1996. [World Bank, 1996] A second round of clarification discussions began almost immediately, resulting in even more drastic changes in 1999. [World Bank, 1999a] In each case, the network of NGOs was more intensively mobilized – in the latter case, even insisting that they be permitted to organize a "seminar" of the World Bank Board of Executive Directors with a representative sample of NGO representatives, including some of those from developing countries who had previously submitted requests for inspection. [World Bank, 1999b] In effect, the process of designing institutional processes at the World Bank had become more open than any other international institution that could be identified at that time.

Several factors made possible this remarkable transformation. Technology was central: the onset of inexpensive communications, first through faxes and dropping telephone costs, and then later through the internet, provided for easy entry into the policy debate at an affordable cost from any capital in the world. Sharing of information on the worldwide web helped rapid mobilization; for example, a watchdog confederation focused on the Asian Development Bank puts all available information on its public website, sometimes before the ADB does. [NGO Forum on ADB] Transportation costs were also dropping: mobilization of stakeholders and activists from developing countries became increasingly affordable for special-purpose workshops as well as at the annual World Bank meetings. Growth of awareness of the possibilities was crucial: by 1999, the IPN had handled cases in all regions other than Europe, and the experiences were shared among civil society on a national and regional basis. Finally, systemic growth of democracy in many countries created openings for citizens to challenge development plans of their own governments through an increasing number of forums, including the IPN at the World Bank.

It is useful to keep these factors in mind when considering the second major issue for citizen engagement: how the IPN was or was not replicated in other institutions. In 1994 the Board of the Inter-American Development Bank began the process of creating its own accountability mechanism, but involved virtually no public consultation in designing it. The Board decided to create a significantly less independent mechanism, effectively overseen by the IDB President and coordinated by an IDB staff member, and the outside expertise drawn from a "roster" available for ad hoc service as needed, instead of a small group of eminent persons with dedicated appointments. This alternative model from the IDB seemed so attractive that the Asian Development Bank (ADB) almost immediately copied it, launching their Inspection Panel in 1995. In both of the regional cases, however, they soon foundered, in large part through feedback from civil society that the mechanisms were neither independent nor responsive. Grassroots NGOs were able to compare the performance of the various mechanisms through specific cases – say, where complaints were filed about the Yacyreta Hydroelectric Project in Paraguay/Argentina with both the World Bank and the IDB – and then funnel their conclusions back to the institutions through the international network of NGOs as well as through their own governments.

The lesson for the financial institutions was that they would need to expand consultation with affected citizens in future institutional changes. Thus, when the World Bank Group decided in 1999 to create a separate mechanism for the International Finance Corporation (IFC) and other private sector activities at the Bank, an elaborate multi-year set of discussions with citizens, NGOs, corporate clients, and experts came about. These consultations eventually produced a highly nuanced mechanism with three parts (ombudsman, compliance review, and environmental advisor) to deal with the issues arising in that part of the World Bank. These discussions were initially undertaken on a multi-sectoral basis, with individuals representing the different sectors engaged in direct discourse over the conference table about the appropriate design of the IFC mechanism. Indeed, offline debates between the NGOs and the corporate clients, just as one example, resulted in some loss of control by the IFC over the outcome. The lesson learned by IFC from that experience was for future discussions over policy changes affecting those groups to be conducted on a strictly segregated basis. Nevertheless, the outcome for the mechanism was greater flexibility for dealing with citizen concerns.

By this point in the global engagement with the financial institutions, enough experience had occurred to stimulate some academic engagement. Both scholars and graduate students began to write about this development, encouraging participants in the process to meet in academic conferences and to write "lessons learned" volumes for greater dissemination. [Fox, 1998; Clark, 2003; Shihata, 2000; Alfredsson, 2000] Many of the articles presented and written at these meetings focused on the tension for citizens between pursuing redress of specific concerns and launching investigations of policy compliance by the international financial institutions. The mechanisms were ostensibly launched for the latter reason (which accords with the constitutional obligations of the institutions), while affected citizens were generally more interested in their specific problems. The NGOs arrayed along a spectrum bridging the two points of view.

The overall lesson learned from the first six to seven years of experience was the need to create dual purpose mechanisms. The next opportunity appeared with the decision by the Board of the European Bank for Reconstruction and Development (EBRD) that it was obliged to create its own accountability mechanism. The Management of the Bank reviewed the experience of numerous other institutions. It consulted very briefly with a limited set of individuals from civil society, finding in most cases that the NGOs in the European region had little education in the experience of the rest of the world with the World Bank or other regional banks. The EBRD also believed that the mix of its portfolio (private/public clients being about 75/25%) meant they needed to take a different approach. Interestingly, the EBRD even found relatively little of use in the IFC design, which works entirely with the private sector. Instead, it created a Chief Compliance Officer position who reports to the President (thus with little independence) and decides whether to utilize a problem-solving process or an investigation by consultants drawn from a roster (similar to the failed IDB and ADB mechanisms). Civil society had little input to the design of this EBRD "Independent Recourse Mechanism" and there have been no filings by citizens for redress since it was created.

A more promising opportunity arose with the political collapse of the Asian Development Bank's (ADB) Inspection Panel, and the request by the ADB Board for a re-designed approach. Bank Management engaged consultants with strong ties to civil society to design a mechanism that provides, first, for a facilitation device focused solely on meeting the concrete concerns of the citizens who have been disadvantaged by the project. If citizens decide that mediation will not resolve the issue, a request for a compliance review can be filed with the other half of the ADB mechanism. In that case, an investigation will occur, and the independent Compliance Review Panel can recommend remedies to the ADB Board to deal with the citizens' concerns as well as the underlying policy compliance failures of the Bank. Since this mechanism was put into place only in 2004, the first tests are now underway, with cases in Sri Lanka and Nepal, with unique monitoring responsibilities in Pakistan. It can be safely said, however, that NGOs are gratified that so many of their concerns about the other, earlier mechanisms seem to have been addressed in this approach by the ADB. Some NGOs are already proposing the ADB model for reform of the accountability mechanisms at the IDB and in national export credit agencies.

The process of learning lessons across various institutions has developed in another way that does not directly involve citizens or NGOs. Early in the life of the World Bank IPN, a request for inspection was filed simultaneously with that institution as well as the IBRD Inspection Panel. The cross-fertilization between independent experts generated the first glimmerings of accelerated learning in both mechanisms. As the financial institutions conduct more joint financing of projects, occasions will arise when citizen requests for review are addressed to more than one bank. As part of knowing each other's mechanisms, the Chair of the World Bank IPN invited representatives from all the accountability mechanisms to meet informally in Washington in May 2004. Because each mechanism is relatively isolated by reporting only to its own institution, the learning process at the meeting was extensive, and a commitment was made to meet annually to compare notes. As might be imagined, a continuing theme at those gatherings focuses on improving interactions with civil society and small groups of citizens. For example, in contrast to the IPN, the mechanism at the ADB has been carrying out frequent seminars across the region to reach civil society organizations within countries to inform them about the recourse available in Manila.

Civil society, for its part, has been sharing lessons across national and regional boundaries about the limitations of these new accountability mechanisms. Much of that sharing occurs electronically, but there are reasonably frequent gatherings of activists who share lessons, especially at the time of the annual meetings of the financial institutions. A cottage industry has sprung up organizing the sharing of best and worst practices at both open and closed gatherings on the margins of official bank meetings. Some of the issues are generic to such institutions, e.g., the lack of transparency despite new policies presuming disclosure of information. For too many bankers, old habits die hard, and citizens are not universally welcomed in asking for greater detail about development projects. Some factors are largely beyond the control of the financial institutions, e.g., limited literacy levels among the general public and the weakness of the democratic culture in many countries. One of the currently contentious concepts of citizen participation, for example, is "prior informed consent." But what does that mean in societies where sources of information are entirely oral, and people have not traditionally been asked for their view prior to a decision by the government? In effect, some parts of civil society are asking the multilateral banks to be instruments of *political* development as well as *economic* development. Finally, a diminishing problem for citizens is simply their limited awareness of the accountability mechanisms at the World Bank and regional institutions, as well as export credit agencies and the "Equator principle" commercial banks. With the participation of more institutions, and the number of actual cases accumulating over time, citizens become aware of this option for redress for them.

The assumption by many that the financial sector would be less responsive to citizen concerns than the public policy sector is turning out to be questionable at best. If current trends continue, it may be that financial institutions, perhaps reflecting their affinity with the market, have greater freedom to meet the democratic and participative demands of citizens. Citizens can place pressure on financial institutions and their clients far more directly, through threatening the success of their projects, than they can shape the policies of inter-governmental political organizations. This lesson, rapidly spreading among civil society, is eliciting activism at a global level that could not have been imagined a decade ago. Even more surprisingly, the activism in international financial institutions is focused in large measure on transforming conditions of democratic access at the national and local level. The feedback process, aided by new technologies, has accelerated the spread of these approaches by citizens beyond the capacity of the institutions to counter and control.

In conclusion, we should not be surprised by the substantial time lag in bringing accountability mechanisms to the international arena. While much frustration was expressed in the fifty years after the declaration of lofty ideals in the United Nations after World War II, it has taken only a limited degree of success to create entirely new precedents to be exploited. Experience in a range of institutions, both on the human rights and the environmental front, allows for much more rapid learning processes as civil society compares its successes and failures.

Equally important, however, we can see in hindsight has been the role of technology. The interoperability of communications equipment, which could not be presumed in a more nationalistic era, has enabled ever less expensive networking in essentially every corner of the world. At the root of citizen empowerment is the need to communicate – with like-minded neighbors and colleagues, with governmental institutions, and with intermediary civil society organizations. In this sense, the multilateral financial institutions under spotlight in this article have made possible what they sometimes regret: the technological diffusion they deemed rightly deemed essential for economic growth has set in train a democratization process far beyond their control.

About the Author:

Richard Bissell's past and current academic interest is in the field of international norms – their development, monitoring of their effectiveness, and feedback loops to strengthen them. This work reaches across a wide range of sectors: environmental, political, economic, and public administration. He has gained the perspective of a practitioner as Executive Director, Policy and Global Affairs, National Academy of Sciences (U.S.), and Executive Director, Committee on Science, Engineering, and Public Policy since 1998, Member of the Compliance Review Panel of the Asian Development Bank since 2004, and Member of the Inspection Panel of the World Bank. He has also worked with the U.S. Agency for International Development, the Georgetown Center for Strategic and International Studies, and the U.S. Information Agency. Mr. Bissell has also held a number of academic posts.

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