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# The Problem of Secrecy and the Opportunity for Openness in International Institutions

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## Introduction

One of the greatest challenges to democratic governance in the globalized world lies in the growing gap between the power of the international financial and trade institutions (IFTIs), as well as international governmental organizations (IGOs), to affect human lives throughout the planet, and the power of the people so affected to hold those institutions accountable. The growth of the international institutions, especially since the end of the Cold War, is particularly dramatic. The World Bank has more than doubled its annual commitments since 1979 and now lends in more than 100 countries, including the previously off-limits territory of the former Soviet Union. The multilateral development banks have emulated the World Bank in the growth of their own regional portfolios. The World Trade Organization replaced the earlier General Agreement on Tariffs and Trade in 1995 with a more restrictive set of rules and binding dispute settlement procedures. The end of the fixed exchange rate system in the 1970s and the debt crisis of the 1980s changed the International Monetary Fund from the world's exchange rate fixer into a key provider of development assistance as well as ultimate arbiter for many countries of whether international capital will be available at all. After 1991, the North Atlantic Treaty Organization expanded to take in the former Warsaw Pact countries of East and Central Europe, and now has troops on the ground in Afghanistan. But the governance structures of these international institutions have not changed.

Discussion of the resulting "democratic deficit" is no longer limited to the protest movement that gave the place names "Seattle" and "Genoa" significance both as generic anti-globalization reaction and as a more sophisticated challenge to the legitimacy of international institutions.<sup>1</sup> The policy and scholarly literature is exploding with attempts to analyze the problem, but at the root of the issue is the genealogy of the IFTIs and IGOs. The former descend directly from central banks, which even in the most democratic

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<sup>1</sup> See Joseph S. Nye, Jr., "Globalization's Democratic Deficit: How to Make International Institutions More Accountable," *Foreign Affairs* (Vol. 80, No. 4, July/August 2001), pp. 2-6; for a more stringent critique, see Graham Saul, "Transparency and Accountability in International Financial Institutions," in Richard Calland and Alison Tilley, eds., *The Right to Know, The Right to Live: Access to Information and Socio-Economic Justice* (Capetown, South Africa: Open Democracy Advice Centre, 2002), pp. 126-137.

countries tend to be the least directly accountable governance institutions; and the latter spawn from lowest-common-denominator alliances of nations, with concomitant governance processes that trend towards the bottom. In both cases, diplomatic confidentiality served as the norm for communications among nations that established these institutions; and such norms continue to shroud them today.

The fact of public attention to the problem of secrecy in international institutions should serve as the threshold signal of an opportunity for change. One cannot underestimate the ameliorative effect of embarrassment, or as the analyst Ann Florini termed this effect, “regulation by revelation.”<sup>2</sup> Such exposure has compelled in particular the IFTIs over the past ten years gradually to expand the documentation that is available to the public and to improve their communication with stakeholders and other target groups. In fact, the public relations and publications functions of international institutions may well be the fastest-growing such bureaucracies in terms of budget and employee positions. But there are at least four other causes for optimism that more fundamental change may well be possible – if civil society seizes the opportunity.

First, what was once a marginalized, placard-expressed, protester critique of international institutions’ secrecy and lack of accountability has now risen to the level of conventional wisdom. When the dean of Harvard’s Kennedy School of Government compares the IFTIs to “closed and secretive clubs,” when the European Union’s commissioner for external affairs (and formerly chair of Britain’s Tory party) pronounces in passing that international institutions “lack democratic legitimacy,” and when the World Bank’s former chief economist describes increased openness as “short of a fundamental change in their governance, the most important way to ensure that the international economic institutions are more responsive to the poor, to the environment [and] to broader political and social concerns” – one sees the makings of an emerging elite consensus on the

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<sup>2</sup> See Ann Florini, “The End of Secrecy?” *Foreign Policy* (Summer 1998).

problem and the potential role of greater openness in addressing the “democratic deficit.”<sup>3</sup> In this formulation, openness becomes the next best thing to democratic governance, and when the latter is unlikely because those in control are unlikely to give up that control, then transparency will serve as the most important alternative control mechanism.<sup>4</sup>

Second, as a result of outside pressure and the emerging conventional wisdom, international institutions themselves are paying at least lip service to the need for greater openness, and in some cases, have actually achieved significant progress towards more transparency. Each of the multilateral development banks, for example, have promulgated formal policies on access to their internal documentation, and a wide variety of records that were previously secret are now routinely provided to the public – although host government veto power and ingrained bureaucratic self-preservation instincts still prevent the most controversial information from such routine publication. The real importance of these developments, however, is that the pro-openness rhetoric from IFTI and IGO leaders, together with the existence of formal disclosure policies, provide extensive leverage points for activists who are willing to test specific instances of secrecy and to pursue an “inside-outside” strategy of working with internal reformers and external watchdogs.<sup>5</sup>

Third, civil society organizations around the world have seized on openness as a threshold goal in struggles over the whole panoply of social issues, ranging from the environment to AIDS to poverty reduction to corruption. In India, for example, the Mazdoor Kisan Shakti Sangathan (MKSS) grassroots movement based in Rajasthan began in 1990 with a focus on securing the legally-required minimum wages for poor farmers

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<sup>3</sup> See Joseph S. Nye, Jr., op.cit.; Chris Patten, “Jaw-jaw, not war-war: Military success in Afghanistan has encouraged the US to ignore European doubts about confronting the ‘axis of evil,’” *Financial Times* (London), 15 February 2002, p. 16; Joseph Stiglitz, *Globalization and Its Discontents* (New York: W.W. Norton & Co., 2002), p. 227; for additional evidence of the growing consensus, see Graham Saul, op. cit.

<sup>4</sup> Joseph Stiglitz, “Democratizing the International Monetary Fund and the World Bank: Governance and Accountability,” *Governance*, Vol. 16, No. 1, January 2003, p. 133.

<sup>5</sup> For the most extensive current reporting on these policies, as well as specific links to actual texts at each of the IFTIs, see [www.freedominfo.org/ifti.htm](http://www.freedominfo.org/ifti.htm).

and rural laborers, but soon realized that access to official records was key not only to that goal, but also to preventing corruption and enforcing a connection between government expenditure and human need.<sup>6</sup> Ironically, this tactical choice by NGOs has coincided at least rhetorically with the rise among elites – not least the professional staffs of the international institutions themselves – of the so-called “Washington consensus” for market-driven economic development, the fundamental assumptions of which require highly-distributed information to make markets work – thus adding efficiency arguments to the moral and political critiques already employed by activists.

Fourth, the past decade witnessed an extraordinary international movement for freedom of information, including successful campaigns for national FOI laws in some 30 countries. While there is enormous variation in the effectiveness of these laws, and major difficulties remaining in the implementation of such rights in transitional democracies with limited rule-of-law, one hallmark of the dozens of national campaigns has been their attentiveness to other national models and their outreach for international connections and support. In the process, international FOI campaigners have identified the problem of IFTI and IGO secrecy as a major priority for future work, and have begun reaching out beyond the traditional FOI community to NGOs and civil society activists experienced in the various IFTI accountability efforts. Over time, these new networks are likely to develop even more dramatic reform proposals for openness and accountability in the international institutions, ranging from potential international treaties as an overarching framework, to notice-and-comment requirements for projects and policy changes.<sup>7</sup>

This paper provides a brief and admittedly selective history of the struggle for openness in the international institutions, summary descriptions of a few of the more important battles and campaigns in that struggle, an analysis of current transparency policies and

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<sup>6</sup> See the forthcoming case study of the MKSS right-to-information campaign, including essays by Aruna Roy, Nikhil Dey, and Vivek Ramkumar, at [www.freedominfo.org](http://www.freedominfo.org).

<sup>7</sup> For description and analysis of the international freedom of information movement, see Thomas Blanton, “The World’s Right to Know,” *Foreign Policy* (July/August 2002), pp. 50-58.

institutional structures within the international institutions, an overview of current issues and debates, and a synopsis of lessons learned from the struggle so far. One major limitation of this paper derives from the limitations of the available scholarly and popular literature on transparency in the international institutions, that is, the preponderance of focus on the World Bank, rather than on the regional development banks, the IMF, the WTO, and NATO. While the latter do feature in a number of significant studies, and this paper will draw on that material for illustrative purposes, it is the World Bank that has occupied the central place in the protest movements of the past 25 years as well as in the international openness reforms of the past decade.

### **The Checkered History of Transparency in International Institutions**

Diplomats, central bankers, generals, and corporate lawyers founded the international institutions that exercise power over the globalized world today. It is no wonder that the habits of confidentiality ingrained in these men (and they were almost all men) became the ethos of the institutions they started. Government-to-government discussions in those days were supposed to stay secret for 30 or even 50 years after they took place; freedom of information law existed only in Sweden (for reasons peculiar to bourgeois-versus-noble competition in the late 1700s) and in the former Swedish province of Finland; and central bankers inspired literature like *The Wizard of Oz*. The essay on the environment in the World Bank's own authorized history of its first half-century mentions that direct contact with the people affected by Bank decisions "seemed to contradict two of the Bank's constitutional principles: that it would deal with citizens and legislators of member governments through the designated representatives of those governments on the Board of the Bank; and that it would maintain a fiduciary relationship with member governments, a relationship of confidentiality in which the responsibility for releasing information pertaining to a borrower lay with the borrowing government."<sup>8</sup> A leader of

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<sup>8</sup> Robert Wade, "Greening the Bank: The Struggle over the Environment, 1970-1995," in Devesh Kapur, John P. Lewis, Richard Webb, eds., *The World Bank: Its First Half Century, Volume 2: Perspectives* (Washington D.C.: Brookings Institution Press, 1997), p. 657.

the Philippines-based Freedom from Debt Coalition stated the problem more directly and colorfully: “When we complain to the World Bank and the IMF, they tell us, ‘So sorry, we don’t talk to people. We only talk to governments. We only talk to your president. We only talk to your central bank governor. We only talk to your minister of finance.’ This is a joint production of the international finance community with the cooperation of local elites and leaders in our own country. The majority of the people are shut out of the negotiations.”<sup>9</sup>

But this opacity, insularity, and secrecy would change – not completely by any means, but markedly. Struggles over 25 years and in countries ranging from Brazil to India forced the change, and the struggle continues. Leadership in the change came from non-governmental organizations, the environmental movement, growing associations of indigenous peoples, and national parliaments, especially the U.S. Congress. The World Bank became the first international institution targeted and the first to change. Activists targeted the Bank for many reasons: The Bank had global impact and tangible projects, received contributions from the U.S. government over which taxpayers and the Congress had the right of oversight, was handily based in Washington D.C. within walking distance of many U.S. and international NGO offices, was not a foreign government that could exercise nationalist appeals in its defense, and already had at least rhetorical commitments to the environment and to ameliorating the conditions of indigenous peoples. The choice of the Bank was not because the Bank’s practices were worse than the other development banks or institutions, but because there were more handles with which to grip the Bank.<sup>10</sup> But the other institutions soon followed: After the financial crises in Mexico (1994), Asia (1997), and Russia (1998), IMF delegations found themselves surrounded by housewives beating tin cups and economists bearing hemlock;

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<sup>9</sup> Leonor Briones quoted in Kevin Danaher, ed., *50 Years Is Enough: The Case Against the World Bank and the International Monetary Fund* (Boston, MA: South End Press, 1994), p. 67.

<sup>10</sup> From the activists’ point of view, see the excellent collection by Jonathan A. Fox and L. David Brown, eds., *The Struggle for Accountability: The World Bank, NGOs, and Grassroots Movements* (Cambridge, MA: The MIT Press, 1998); from the independent scholar contributing to the Bank’s authorized history, see Robert Wade, “Greening the Bank,” especially pp. 658-659.

soon the IMF moved almost all of its documents onto the Web and began reaching out to parliamentarians and NGOs.<sup>11</sup> In 1999, the WTO ministerial meeting in Seattle became the scene of violent and non-violent street protest; by 2002 the WTO was issuing press releases about its quicker release of restricted documents, regular NGO seminars, and spending core budget funds to include lower-income countries in its Geneva proceedings.<sup>12</sup>

For the World Bank openness struggle, the start date that activists point to is 1966, when the General Assembly of the United Nations passed resolutions condemning the apartheid regime in South Africa and the continuing colonial subjugation of Angola and Mozambique by Portugal, as violations of the U.N. charter. Despite its U.N. affiliation, the Bank insisted that Article IV, Section 10 of its own Charter, prohibiting interference in the political affairs of its members, required it to disregard the resolutions. The Bank proceeded with a \$10 million loan to Portugal and \$20 million to South Africa, even after a personal plea from U.N. Secretary General U Thant to the Bank's president, George Woods.<sup>13</sup> This was hardly the first, but certainly the most flagrant, of World Bank actions that raised the question of accountability. If the U.N. charter itself did not apply, then the Bank had set itself up as an entity above national law but without international law. As activist David Hunter described it, because the Bank was insulated from any legal responsibilities to the people directly affected by its actions, it was therefore a "lawless institution."<sup>14</sup>

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<sup>11</sup> Andrew Eggers, Ann Florini, Ngaire Woods, "Chapter One: Accountability, Parliaments and the IMF Board," in Barry Carin and Angela Wood, eds., *Enhancing Accountability in the International Monetary Fund*, Centre for Global Studies, University of Victoria (Canada), November 12, 2003 DRAFT, pp. 8-24.

<sup>12</sup> World Trade Organization, "WTO moves towards a more open organization," 16 May 2002, with Document WT/L/452 of 14 May 2002 attached.

<sup>13</sup> Graham Saul, Bank Information Center, conversation with author, 13 January 2004; Bruce Rich, "World Bank/IMF: 50 Years Is Enough," in Kevin Danaher, ed., *50 Years Is Enough*, p. 8.

<sup>14</sup> David Hunter quoted by Jonathan Fox, "Introduction: Framing the Inspection Panel," in Dana Clark, Jonathan Fox, Kay Treakle, eds., *Demanding Accountability: Civil-Society Claims and the World Bank Inspection Panel* (Lanham, MD: Rowman & Littlefield, 2003), p. xiii.

The first effective resistance by affected peoples came in the Philippines, only two years into the martial law imposed by Ferdinand Marcos in 1972. The World Bank made the Philippines a priority, lending \$2.6 billion for 61 projects between 1973 and 1981. In particular, the Chico River dam project in the Cordillera would have provided hydroelectric power in the wake of the oil crisis, but only by flooding nearly 3,000 hectares of rice terraces belonging to the indigenous Kalinga and Bontoc peoples. They only found out about the dam a year after project approval, when survey teams came to the valley. Protests escalated, from petitions to the government that were ignored, to a regional pact among indigenous leaders against working in the construction, to incursions by the New Peoples' Army guerrilla forces, to direct protest at the IMF Manila conference in 1977, where Bank president Robert McNamara felt compelled to say that "no funding of projects would take place in the face of continued opposition from the people." Ultimately, the Bank withdrew and the Philippine government postponed the dam indefinitely; "it was a silent retreat, but this did not detract from the fact that the Bontoc and Kalinga had accomplished something exceedingly rare in the Third World: the Bank's withdrawal in the face of popular resistance."<sup>15</sup> In partial response, the Bank developed its first policies on indigenous peoples, but it would be years before those policies explicitly mandated informed consent and self-determination as core principles.<sup>16</sup>

In retrospect, the Polonoroeste road-paving and forest colonization project in Brazil starting in 1982 may have been the "paradigm case" of atrocious World Bank projects, and of effective NGO opposition. Polonoroeste featured enormous environmental and social damage, and no consultation with indigenous peoples, while internal Bank warnings were ignored and government and extractive industry interests drove the

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<sup>15</sup> Walden Bello, David Kinley, Elaine Elinson, *Development Debacle: The World Bank in the Philippines* (San Francisco: Institute for Food and Development Policy/Philippine Solidarity Network, 1982), p. 57.

<sup>16</sup> Andrew Gray, "Development Policy, Development Protest: The World Bank, Indigenous Peoples, and NGOs," in Jonathan A. Fox and L. David Brown, *The Struggle for Accountability* (1998), pp. 269-270, 287-288.

process in Brazil. The project's road-paving, paid for with \$457 million from the World Bank, doubled the population of the region in a decade, while deforestation pulped the rainforest. Of the development fostered by the Polonoroeste road-building, a professional forester wrote: "Visiting such areas it is hard to view without emotion the miles of devastated trees, of felled, broken and burned trunks, of branches, mud and bark crisscrossed with tractor trails – especially when one realizes that in most cases nothing of comparable value will grow again on the area. Such sights are reminiscent of photographs of Hiroshima, and Brazil and Indonesia might be regarded as waging the equivalent of thermonuclear war upon their own territories."<sup>17</sup>

But there's more than devastation to the Polonoroeste story. NGO protest, social networks of Brazilian and foreign anthropologists, and the first Washington-based international NGO campaign persuaded the U.S. Congress to intervene with hearings and an unprecedented meeting with the head of the World Bank. In March 1985, the Bank suspended the loans. "It was an extraordinary double precedent: for the first time, the Bank was forced to account to outside NGOs and a legislator from a member country for the environmental and social impacts of a lending program; also for the first time, a public international financial institution had halted disbursements on a loan for environmental reasons."<sup>18</sup> Perhaps equally important for the future of openness struggles against the Bank and the IFTIs, international activists forged close connections with the rubber tappers from Acre, Brazil, and their leader Francisco "Chico" Mendes, whose subsequent assassination in 1988 by the hired guns of irate landowners put the rainforest issue on the front page of *The New York Times*. The connection transformed both parties, placing the human dimension of environmental change at the heart of the argument, adding sustainability proposals like Mendes' "extractive reserves" to the development debate, giving the tappers new access to international leverage, giving the internationals

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<sup>17</sup> Nicholas Guppy, "Tropical Deforestation: A Global View," *Foreign Affairs*, Vol. 62, No. 4 (Spring 1984), p. 943.

<sup>18</sup> Andrew Gray, *ibid.*, p. 279.

new approaches to environmental debates that were grounded in social relations rather than technical expertise.<sup>19</sup>

Like Polonoeste a classic example of the Bank's failure to provide information to and consult local populations, the Narmada dam project in India resulted in mass protest and ultimately catalyzed two major reforms at the Bank – the new information disclosure policy and the Inspection Panel. Approved by the Bank in 1985 with a loan of \$450 million, the Sardar Sarovar (Narmada) project was slated to displace more than 150,000 people from their homes and villages – most of whom found out not from timetables or resettlement locations but from the markers placed in their villages indicating the submergence level of the prospective reservoir. NGOs and individuals such as Medha Patkar (a social worker originally from Bombay) insisted on access to information, and by 1988 the grassroots movement known as Narmada Bachao Andolan (NBA, or Save the Narmada Movement) had mobilized thousands of the “oustees” in complete opposition to the dam. One turning point was a special U.S. Congressional oversight hearing in 1989 featuring NBA testimony; connections between the Congressman who chaired the hearing and members of the Japanese Diet, plus media coverage of a subsequent NGO forum in Japan, persuaded the Japanese government to end its support for the project. Gradually, Bank executive directors began questioning the version of events provided by the Bank's operations staff because it differed so strongly from the reports from the affected people themselves. The NBA launched a December 1990-January 1991 march to the dam site, but were stopped at the state border by police, which led to a 26-day fast by Patkar and other activists, and even more pressure on the Bank.

Finally, the Bank appointed an independent review team (the Morse Commission), but then voted to continue the project despite the team's findings that resettlement was “not possible under prevailing circumstances,” that environmental impacts had “not been properly considered or adequately addressed,” and that “progress will be impossible except as a result of unacceptable means,” that is, police force. The Bank's approval of

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<sup>19</sup> Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International*

continuing the dam, according to Patrick Coady, the U.S. executive director, at the October 1992 board meeting, signaled “that no matter how egregious the situation, no matter how flawed the project, no matter how many policies have been violated, and no matter how clear the remedies prescribed, the Bank will go forward on its own terms.”<sup>20</sup> But Narmada catalyzed protests at the 1994 Madrid meetings, multiple Congressional inquiries, a highly successful NGO campaign working with the U.S. Congress to hold back funding replenishment for the World Bank Group, and ultimately, the Bank responded with the Inspection Panel and a new disclosure policy. For the oustees, the Indian government proceeded with the dam, which continues under construction today, with reservoir levels rising and resettlement a debacle. (One question is whether the initial Bank funding was essential to the start of the project, or whether, as the Bank likes to claim, the Indian government would have proceeded without the Bank).

#### BioBio (Chile)\_

First time the IFC publicly released an environmental assessment before the board’s review, thus allowing debate about the assessment’s deficiencies.<sup>21</sup>

But independent review by former National Wildlife Federation head censored by the Bank, almost a third of the report never made public. According to a letter by Dr. Hair to Wolfensohn, “numerous deletions that appear to have been made for not other reason than to avoid embarrassing the individuals who made certain decisions regarding the Pangué project or how it was supervised by the IFC.”

Campaign huge success at international level, some significant success at national level for the development of demo institutions in Chile, but mostly a failure at the local level, no real benefits to the local indigenous communities, divide-and-conquer politics by the power company.

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*Politics*, (Ithaca, NY: Cornell University Press, 1998), pp. 135-141.

<sup>20</sup> Lori Udall, “The World Bank and Public Accountability: Has Anything Changed?” in Jonathan A. Fox and L. David Brown, *The Struggle for Accountability* (1998), pp. 400-401.

<sup>21</sup> David Hunter, Cristian Opaso, Marcos Orellana, “The Biobio’s Legacy: Institutional Reforms and Unfulfilled Promises at the International Finance Corporation,” in Dana Clark, Jonathan Fox, Kay Treakle, *Demanding Accountability* (2003), pp. 115-143.

### Arun III (Nepal)

The poster child of the 50<sup>th</sup>-anniversary campaign against the World Bank, the first claim presented to the new Inspection Panel, ultimately obliged the new Bank president James Wolfensohn to take sides in the preexisting internal debate over the project's viability, and revealed how transnational advocacy networks can sometimes tip the balance. The claim and the Panel's report provoked Wolfensohn to withdraw the Bank's support for Arun III, and established the Inspection Panel as a viable accountability institution. Even so, the Bank attempted to prevent the release of the final panel report in August 1995, but its hand was forced because portions had leaked out "which is causing distortion of the facts and embarrassment to the Bank."<sup>22</sup>

The China Western Poverty Reduction Project was perhaps the most recent "turning point" case in the history of the Inspection Panel and of the Bank. Starting in 1999, the Bank sought to support the Chinese government's plan to resettle some 58,000 poor farmers onto lands traditionally roamed by nomadic Tibetan and Mongolian peoples. Local people sent letters seeking international support against the plan, and Tibet solidarity groups worked with the Bank Information Center and other Bank watchdogs to generate skepticism in donor governments and intense media coverage – including scaling the façade of the Bank building with protest signs. The campaign led to high-level diplomatic tensions between the Bank, its largest donor (the U.S.), and its largest borrower (China); an unusually intense level of board engagement; a scathing report by the Inspection Panel; and ultimately the cancellation of the Project. The Panel report not only documented the project's systematic violation of the Bank's "safeguard" policies, but went further to reveal weaknesses across the Bank's entire system for avoiding and mitigating environmental and social risks. The Bank responded with a new commitment to the safeguards and a series of checks and balances to ensure compliance.<sup>23</sup>

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<sup>22</sup> Richard E. Bissell, "The Arun III Hydroelectric Project, Nepal," in Dana Clark, Jonathan Fox, Kay Treakle, *Demanding Accountability* (2003), pp. 25-44, quote is on p. 42 from an internal Bank memo.

<sup>23</sup> Dana Clark and Kay Treakle, "The China Western Poverty Reduction Project," in Dana Clark, Jonathan Fox, Kay Treakle, *Demanding Accountability* (2003), pp. 211-245.

These struggles over controversial projects from the Polonoroeste to Tibet also catalyzed a remarkable pro-openness dynamic – directed internally rather than externally – on the part of the professional staff of the Bank and the other institutions. For example, in the authorized history of the Bank’s environmental dealings, based on almost complete access to the Bank’s files, the author subtly denigrates what he terms the “extreme” rhetoric of the NGO activists, but he reserves his deepest scorn for the internal deception and secrecy evident from the Bank’s own documents, and often deployed by Bank staff against management and even the Bank’s board. For example, two years after the board had approved the first phase of the Amazon highway project, “some Board members expressed concern about Polonoroeste. To each the staff gave reassuring replies that concealed much contrary information. And the staff misled not only the Board but also the president. In a briefing paper on Polonoroeste to [A.W.] Clausen in December 1983, the staff wrote, ‘...Implementation of the Special Project [for Amerindian protection] is now satisfactory’ ... Evidence from the files shows that the division chief was busy telling the Brazilian government that implementation was very unsatisfactory. Few of the thirty-seven Indian reserves had been demarcated and registered, and many had been invaded by squatters, loggers, and others.’”<sup>24</sup>

This critique suggests one component of a growing commitment by the World Bank to greater openness: the realization by the Bank itself that internal barriers to information-sharing generated bad decisions and trapped the Bank in bad projects. For example, after NGO critics had shown the myriad ways in which the Narmada dam project failed to meet stated Bank policies, the Bank staff began to fool itself. The authorized history puts the situation this way, in a remarkable soliloquy: “Retrofitting is difficult. The effort to do so in Narmada as NGO pressure built up then began to produce apparently deceitful behavior on the part of the operational staff [of the World Bank]. Their logic went like

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<sup>24</sup> Robert Wade, “Greening the Bank,” pp. 649-650, citing the summary of discussions at the meeting of the executive directors, 25 October 1983, the acting regional vice president’s briefing paper dated 28 December 1983, and a Bank telegram to the Brazilian Ministry of the Interior dated 17 March 1983.

this. 1. We know things are not going well in the project. 2. But do we want to pull out or suspend? 3. No, it is potentially a damn fine project, and things will go better if we are in. (Anyway, management will not allow a pullout, for ‘country relations’ reasons.) 4. Therefore we need to justify staying in. We do so by sending up reports that things are going well or at least improving, making sure that if anything is said about things that are not going well the phrasing implies that they are minor or on the way to being fixed. The trick is to make the aroma of words do the work that the evidence cannot.”<sup>25</sup>

One significant result of the openness battles at the World Bank has been a remarkable institutional commitment to encourage national and local freedom of information laws. The World Bank Group has produced a series of readings and training manuals for its country staff on government openness, has organized seminars and videoconferences in dozens of countries, and has produced research that concludes “countries with better information flows also govern better.”<sup>26</sup> But the Bank’s proselytizing is not the only model for international institutions; in fact, one of the most prominent of the IGOs – NATO – has actually encouraged greater secrecy among its members.

In 2002, the North Atlantic Treaty Organization held its first-ever summit in the capital of a former Warsaw Pact nation – Prague – and formally announced the entry into NATO of seven new members from Eastern Europe and the Baltics. In the case of Romania, *The Times of London* commented that the invitation came “despite its endemic corruption, a systematic lack of government transparency and poor progress towards a Western-style civil society.” Romanian president Iliescu chose to emphasize that joining NATO would allow Romania “to be integrated into the civilized world, and to receive necessary support for internal reforms”; and NATO officials complimented the Romanian military for “satisfying its Membership Action Plan, a detailed set of changes in both the military and

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<sup>25</sup> Robert Wade, “Greening the Bank,” p. 708.

<sup>26</sup> Roumeen Islam, “Do More Transparent Governments Govern Better?” World Bank Policy Research Working Paper 3077, June 2003, in *Sourcebook on Government Transparency Law: Background Readings for Making Government Accountable: An Introduction to Government Transparency Laws*, World Bank Workshop, 10 December 2003.

civilian sectors that NATO assigns applicant countries” including “promoting the rule of law.”<sup>27</sup>

One of the most significant NATO assignments, however, has almost completely undercut Romania’s halting progress towards greater freedom of information, by forcing Romania to adopt a state secrets law that conforms to NATO’s own information security system – itself a relic of Cold War secrecy thinking. Romania’s new secrecy law, enacted in 2002, creates a broad authority to withhold information that has been deemed sensitive by government officials, and trumps the 2001 Law Regarding Free Access to Information of Public Interest. In fact, the NATO accession process has contributed to new state secrets laws in 11 Central and Eastern European countries that otherwise had been in the vanguard of the international freedom of information movement in the 1990s. Yet NATO has refused to make its standards publicly available and has instructed NATO countries to decline requests for its policy under national FOI laws. New intergovernmental cooperation in the war on terrorism is likely to deepen and expand this emphasis on information security rather than openness on the part of NATO, other regional security alliances and international governmental organizations (IGOs).<sup>28</sup>

### **Policies, Laws and Institutional Structures**

To date, almost every IFTI has promulgated a formal disclosure policy, and several have gone through two or more revisions of those policies based on actual experience and input from outsiders.<sup>29</sup> Several of the IFTIs have also included transparency procedures in their compliance requirements for host governments; yet those transparency

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<sup>27</sup> See Adam LeBor, “Alliance bends its rules for strategic Romania,” *The Times (London)*, 20 November 2002; for the Iliescu quote and the “Membership Action Plan,” see Robert G. Kaiser, “Romania Sees NATO Membership as Remedy for Post-Communist Ills,” *The Washington Post*, 21 October 2002, p. A18.

<sup>28</sup> For a detailed analysis and critique of the NATO-imposed secrecy laws, see Alasdair Roberts, “Web of Secrets: NATO’s Security of Information Policy and the Right to Information,” *East European Constitutional Review*, 11.3/4 (2003).

<sup>29</sup> Links to each of the IFTI disclosure policies are included at [www.freedominfo.org/ifti.htm](http://www.freedominfo.org/ifti.htm)

requirements often fall far short of achieving openness. In addition, measurement of each institution's openness must include significant issues as identified by NGOs, host governments, and media reporting.

There are at least three cross-cutting arenas for measuring the openness of international institutions: participatory disclosure, review mechanisms, and governance. Participatory disclosure means openness that empowers participation in the decisionmaking process of the institution, rather than end-stage disclosure of decisions that have already been made. Most international institutions are much better at the latter than at sharing detailed information early in the deliberative process. Review mechanisms involve process guarantees such as requirements that information refusals be made in writing, that refusals be subject to a "harm test" or "public interest test" as in many national freedom of information statutes, and that requesters have the right of appeal for independent review of the withholding. Governance means simply the level of meaningful public oversight for the governing bodies of the institutions. At the multilateral development banks, for example, almost total secrecy surrounds the operations of the boards of directors; while at the World Trade Organization, trade negotiations and arbitrations that have the force of law take place behind closed doors.

This example also points to a key difficulty in comparing openness policies across different institutions. A comparative approach is essential to identify best and worst practices and to raise the overall standards of openness. However, beginning with the IFTIs, the core problem for comparative analysis along any dimension, not only openness, arises from their differences in form, function, governance, process, and financial instruments. For example, an IMF loan serves a very different function than does a World Bank loan; the Asian Development Bank has a very different decision-making process (dominated by Japan) than does the Inter-American Development Bank (dominated by the U.S.); and the World Trade Organization has no lending cycle at all.

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Stated policy is one thing; actual practice is another. Likewise, experts based in Washington D.C. or other financial centers enjoy levels of access to IFTI information far greater than that of indigenous people in the forests of Cambodia, to take only one recent example. Also, institutions that rank highly in one dimension may fail on others. The country of Singapore, for example, ranks at the top of the Transparency International index (measuring corruption perceptions) and serves as the baseline for the PriceWaterhouseCoopers “Opacity Index” (which measures lost foreign investment in relation to perceived opacity in given countries), yet when journalists affiliated with the Southeast Asian Press Alliance asked eight countries in the region for 45 specific items of government information, Singapore provided less than 50%, about equivalent to Cambodia.<sup>30</sup>

The Southeast Asian Press Alliance model suggests a coordinated testing campaign focused on the international institutions to gauge each institution’s actual practice from the ground up, using specific items of information in each of the three main categories (participatory disclosure, review mechanisms, and governance), with requests from experts and from nationally-based NGOs and journalists. This challenge has now been taken on by the Global Transparency Initiative, a collaborative project of the Access to Information Network (Philippines), Article 19 (United Kingdom), Bank Information Center (U.S.), Bretton Woods Project (U.K.), Central and Eastern Europe Bankwatch Network (Czech Republic), *freedominfo.org* (U.S.), Institute for Democracy in South Africa, and Asociacion Civil Libertad de Informacion de Mexico. Such an approach, involving researchers from many different countries but using a common template of measurement and data-gathering, is the only way to amass credible evidence for international and inter-institutional comparisons. This approach will produce systematic evidence and research results that are most useful for public education purposes, especially in the form of “poster-child” cases, where information access is the key to

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<sup>30</sup> See “Open for Business,” sidebar in Thomas Blanton, “The World’s Right to Know,” *op. cit.*, p. 54; also Sheila Coronel, ed., *The Right to Know: Access to Information in Southeast Asia* (Quezon City: Philippine Center for Investigative Journalism, 2001).

public participation and quality decisionmaking, not to mention prevention of corruption. This approach will hold stated policies to practical examination, assist NGOs and civil society in making formal requests at multiple levels of IFTI/IGO structures, assist coordinated requests that cross national boundaries, and publicize test cases both for modeling and cross-fertilization. Over time, this process will create a substantial evidentiary database on which to ground further analytic conclusions as well as reform proposals.

As of 2004, the best comparative evidence available comes from a “matrix” database created by the Bank Information Center and *freedominfo.org* as a first step towards systematic measurement of openness in the IFTIs. The initial version of the database, released in April 2004, focuses on ten key financial institutions: the World Bank, International Finance Corporation, Multilateral Investment Guarantee Agency, European Investment Bank, European Bank for Reconstruction and Development, Inter-American Development Bank, Inter-American Investment Corporation, African Development Bank, Asian Development Bank, and International Monetary Fund. This 255-item matrix makes possible the most sophisticated comparison ever of IFTI transparency policies.<sup>31</sup>

The matrix breaks down the banks’ processes into categories such as “general institutional information,” “the lending cycle,” “bank-wide policies, guidelines, procedures and strategies,” “evaluations and audits,” “country-specific analysis and strategy papers,” “governing bodies,” “accountability mechanisms,” “process guarantees,” and “archives-websites-information centers.” Within each category may be as many as 30 different information types. For example, “the lending cycle” includes social and environmental review procedures, early identification of potential loans, project preparation including feasibility and environmental assessments, pre-approval

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<sup>31</sup> Bank Information Center and *freedominfo.org*, *Opening the International Financial Institutions: The Complete Transparency Resource and Database*, (Washington D.C.: 22 April 2004). Contributors included Abigail Parish, Toby McIntosh, Jen Kalafut, Graham Saul, and Thomas Blanton.

notification and approval discussion, implementation and supervision reporting, and completion and evaluation reporting.

The preliminary findings indicate many common weaknesses – few open meetings, the delayed release of many documents, the confidentiality of many documents, and no clear procedures to request information. The contrasts indicate that there are some areas where one or more institution has moved ahead, such as the fact that the Asian Development Bank and the African Development Bank are the only institutions to release certain environmental information 120 days prior to project approval for both public and private sector lending. While none of the banks stands out across all the transparency categories, the matrix does show the World Bank with the highest disclosure standards.

The "presumption" of disclosure, claimed by many institutions as cornerstones of their policies, is seriously undercut by a plethora of exceptions, according to the preliminary conclusions drawn from the matrix. Most institutions' disclosure policies are undercut by numerous specific exceptions and constraints. Nor are there procedural avenues for those who feel access has been unfairly denied. The policies are not tested on any scale for balancing the legitimate need for confidentiality with the public interest in transparency. The disclosure policies also appear to reflect substantial deference to private corporations. Also, the meetings of the major decision-making bodies are uniformly held in private.

The matrix data also reveals that there is little coherence in the transparency of institution-wide policy development; disclosure tends to come after decisions have been made; little information is released during project implementation; financial intermediary lending is generally exempt from disclosure rules; translation policies are lacking; and some dissemination efforts lack procedures.

The study indicates that basic institutional information is consistently released, but that the institutions are generally weak when it comes to giving the public specific information on how to contact directors or staff members. Meanwhile, the governing

bodies are almost completely closed to public scrutiny, with no minutes, voting records or transcripts available. Post-meeting announcements come in different forms and levels of specificity.

The IFIs do not have clear procedures regarding the transparency of their policy review and development processes. Among other things, none of the institutions releases external comments made during a policy review. Nor are drafts of proposed policies made available consistently before board action. Financial statements and audits are generally available, but more specific reporting on evaluations is often not disclosed. Most IFIs disclose the final economic reports or analyses for specific countries, but the preparation of them is largely untransparent.

As for project lending, none of the IFIs release the draft board reports on potential projects, and background feasibility and technical studies are difficult to obtain. Policies on the release of environmental information vary. Project implementation and supervision is arguably the most secretive phase of the project cycle. Similarly, the lending activities of financial intermediaries are subject to a much lower standard of disclosure.

Only a few institutions have accountability mechanisms – the systems that may allow IFI employees or outsiders to raise grievances – and few live up to the most transparent mechanism, the Inspection Panel found at the World Bank.

While all the IFIs have disclosure policies, they generally do not have process guarantees – such as clear standards on what should be disclosed, a promise of timely response, or a right of appeal. None of the IFIs has an institution-wide, binding translation policy. Many of the IFIs have archive policies with timelines for declassifying materials. The Asian Development Bank is the most progressive, with a five-year declassification period, but disclosure is still subject to government consent.

## Contemporary Issues and Debates

Probably the largest single debate, at least in the activist networks, is the argument over abolition versus reform; and the greatest virtue of openness in this debate is that the concept works for both sides. One expert observer has characterized the World Bank inspection panel as “one of the first institutional reforms that was extracted by what has since come to be called a ‘fix it or nix it’ bargaining strategy. The ‘fix it or nix it’ slogan became prominent in the Seattle 1999 challenge to the WTO, but sums up a debate that goes back to the “50 Years Is Enough” campaign against the World Bank and the IMF in the early 1990s. This slogan can be read in two different ways: first, as a bargaining strategy, as in ‘either you fix it or we will try to nix it’; and second, as referring to the more reformist and radical wings of the movement against corporate globalization.”<sup>32</sup> Put another way, what the author Robin Broad terms the “global backlash” includes both those efforts to “roll back” the corporate-led globalization process, and campaigns that are trying to “reshape” it, and these two approaches often overlap and even coexist in practice, depending on variables such as the political moment, the issue, and the campaign.<sup>33</sup> Perhaps all the actors involved understand that winning full transparency along each of the dimensions of participatory decisionmaking, review mechanisms, and governance of the international financial and trade institutions would indeed revolutionize their operations, rather than simply reform them.

More specific debates revolve around the hangover of “business confidentiality” in the IFTIs. Before the campaigns and reforms of the 1980s and 1990s, this presumption of a fiduciary responsibility on the part of the IFTIs towards borrowers and contractors overrode all other considerations during decisions about transparency. This has changed

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<sup>32</sup> Jonathan Fox, “Introduction,” in Dana Clark, Jonathan Fox, Kay Treakle, eds., *Demanding Accountability*, p. xxvi.

<sup>33</sup> Robin Broad, ed., *Global Backlash: Citizen Initiatives for a Just World Economy* (Lanham, MD: Rowman & Littlefield, 2002).

somewhat, but the hangover continues, despite all the openness commitments. In November 2002, for example, it required no less than a Supreme Court decision in Uganda to break the World Bank's version of this barrier, with significant consequences. A Ugandan High Court justice overruled the Ugandan government and the World Bank to order the release of a key document defining the commercial arrangements relating to a controversial Nile River dam project supported by the World Bank. The \$550 million dollar Bujagali dam will commit the already heavily-indebted country to pay billions of dollars to the private corporation that will own and operate the project for the resulting electricity, whether or not Uganda can re-sell the power elsewhere in Africa; yet the World Bank refused to require release of the Power Purchase Agreement between the corporation and Uganda. An internal World Bank ombudsman report in September 2001 noted that if the project's sponsor "wants to maintain a degree of secrecy consistent with a private sector project, perhaps public institutions should not be asked to provide guarantees for or subsidize the undertaking." Concerned citizens and civil society groups in Uganda went to court, citing Article 41 of the Ugandan constitution as requiring release of the document, and High Court justice Egonda-Ntende agreed with them. A subsequent NGO analysis of the document concluded that Ugandans "will pay hundreds of millions of dollars in excessive power payments" as a result of the project.<sup>34</sup>

Even greater difficulties arise in the case of the IMF, which aligns itself with central banks rather than aid agencies as the World Bank does. For years after the East Asian meltdown, the IMF refused to engage in public evaluation, even though it finally admitted that it had imposed excessively contractionary fiscal policies. As Joseph Stiglitz remarked, "The IMF holds that transparency could undermine its effectiveness, a view it shares with the central bankers who play such a large role in its governance. With few exceptions, most of them are committed to the proposition that public discussions of monetary policy would not contribute to economic stability and believe that even public disclosure of the IMF's deliberations would be counterproductive. Remarkably, there is

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<sup>34</sup> See "Ugandan Judge Orders Release of Key Document on Bujagali Dam," in *IFTI Watch*, [www.freedominfo.org](http://www.freedominfo.org), posted 22 November 2002, with links to the judge's decision and the NGO analysis.

little empirical evidence in support of these strongly held views.”<sup>35</sup> In his Amnesty International lecture, Stiglitz argued that a constant stream of information from the central banks about monetary policy and decisions would actually serve a stabilizing function in the markets, rather than leaving a mystery to be discerned by the price discovery function in the bond market.<sup>36</sup>

The blame game of shifting responsibility between the IFTIs and the host governments also provides cover for continued opacity. In Phnom Penh, about 40 villagers from several Cambodian provinces showed up in front of the World Bank office on Monday, November 11, 2002, and vowed to sleep on the sidewalk until they received copies of the logging plans for the areas in which they lived. That Monday was the beginning of a 19-day public review period required by the World Bank for the plans, which indicate where and how cutting is to occur over the next 25 years. But the government’s Department of Forestry and Wildlife apparently provided the World Bank – its biggest single funder – with only two copies of the plans, both in black-and-white, which obscured the color-coding that specifically outlined logging areas. Villagers demanded color copies to take back to their communities, and told the Bank that neither the logging companies nor the forestry department had consulted with them about which areas should be protected as community forest. Bank officials attempted to negotiate greater access, but simultaneously affirmed the release of a \$15 million loan that had been held up while the Bank pressed the government for the public review. An NGO observer called the review process “a farce,” while a Bank official told reporters “it’s a first, it’s a start... not insignificant.”<sup>37</sup>

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<sup>35</sup> Joseph Stiglitz, “Democratizing the International Monetary Fund and the World Bank: Governance and Accountability,” *Governance*, Vol. 16, No. 1, January 2003, p. 115.

<sup>36</sup> Joseph Stiglitz, “On Liberty, the Right to Know, and Public Discourse: The Role of Transparency in Public Life,” Oxford Amnesty Lecture, 27 January 1999, p. 20.

<sup>37</sup> Richard Sine and Nou Pohours, “Villagers Beg World Bank for Logging Plans,” *Cambodia Daily*, 12 November 2002 (posted 2 December 2002 at [www.freedominfo.org](http://www.freedominfo.org)).

Working in the opposite direction from national-level secrecy vetoes, national openness analogies offer some interesting principled approaches that hold great promise for cross-cutting application. For example, members of the nascent IFTI/IGO accountability network are discussing the analogy provided by the U.S. Administrative Procedures Act of 1946, which compels a notice-and-comment procedure by federal agencies for any regulation or policy change that would affect private parties or state and local governments. The procedure includes litigation rights if the agency fails to provide notice or fails to take into account public comment, or otherwise flouts the participatory intent of the statute. Today, an entire section of the American Bar Association specializes in administrative law; and additional notice-and-comment-type provisions routinely show up in U.S. regulation and legislation (this is the legal basis for environmental impact statements, for example). An NGO project currently underway is organizing a working group of legal experts in administrative law and international organizational law and commission research on the history and impact of the U.S. APA, on comparative notice-and-comment procedures in other countries, and on the development of a set of principles or a model procedure that would be applicable to international institutions. The network could then work through existing norm-setting entities (such as the Inter American Human Rights Commission or international legal bodies) to create conventions for adoption of the recommended procedures. Several analysts have already suggested a similar mechanism for the WTO, when regulations have an effect on trading partners.<sup>38</sup>

## **Lessons Learned**

The history of constant struggle for the past 25 years over issues of openness and accountability at the World Bank and the other international institutions holds significant lessons for activists, analysts, citizens and the institutions themselves. The extraordinary pattern of grudging reforms preceded and enveloped by clouds of rhetorical commitments, suggests that the eloquent abolitionist and former slave Frederick Douglass

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<sup>38</sup> Robert Howse and Kalypso Nicolaidis, "Enhancing WTO Legitimacy: Constitutionalization or Global Subsidiarity?" *Governance*, Vol. 16, No. 1, January 2003, pp. 88-89.

had it right: “Power concedes nothing without a struggle.” The authorized history of the World Bank’s interaction with environmental issues contains a constant refrain of pressure and reform: “[G]overnance reforms of the mid-1990s, intended to make the Bank more transparent and publicly accountable, reforms that were once again prompted mainly by environmental NGOs.”<sup>39</sup> “[O]utside pressure was critical in getting the Bank to take action: ‘There were a number of outside groups who were quite vociferous... in bringing this to our attention... groups like Amnesty International, the Harvard group of Cultural Survival... and others. They were quick to chastise us and rightly so.’”<sup>40</sup>

1. Money pressure works best: The Bank finally installed the Inspection Panel and issued its information disclosure policy after the U.S. Congress threatened to hold up refunding its capital accounts.

2. Keep up with the neighbors: In openness consultations with IFTI staff, the constant refrain is not about “best practices,” but queries about what other IFTIs are doing. In this regard, the focused pressure on the World Bank has had significant ripple effects on all the regional development banks.

3. Rhetorical commitments provide leverage: It was the Bank’s successive and nearly continuous violations of its own stated policies that gave activists and affected populations the handles to force accountability and openness. Such policy commitments may seem empty at first or in the face of systemic flouting, yet they empower challenges to power in unexpected ways.

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<sup>39</sup> Robert Wade, “Greening the Bank,” p. 613.

<sup>40</sup> Ibid., p. 630.

