

# RIGHT TO BE HEARD: INTIMIDATION AND REPRISALS IN WORLD BANK INSPECTION PANEL COMPLAINTS

DECEMBER 2021

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# ABBREVIATIONS AND ACRONYMS

BHRRC	Business and Human Rights Resource Centre
CAO	Compliance Advisor Ombudsman
CSO	Civil Society Organization
DRC	Democratic Republic of Congo
ESF	Environmental and Social Framework
ESS	Environmental and Social Standard
GBV	Gender-Based Violence
GRM	Grievance Redress Mechanism
HRD	Human Rights Defender
IAM	Independent Accountability Mechanism
IDB	Inter-American Development Bank
IFI	International Financial Institution
NERAMP	North Eastern Road-corridor Asset Management Project
OHCHR	Office of the United Nations High Commissioner for Human Rights
PAPs	Project-Affected Persons
PBS III	Protection of Basic Services Program Phase II Additional Financing and Promoting Basic Services Phase III Project
Pro-Routes	Second Additional Financing for the High-Priority Roads Reopening and Maintenance Project
TSDP	Transport Sector Development Project
UN	United Nations
UNRA	Uganda National Roads Authority

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# INTIMIDATION AND REPRISALS— WORLD BANK INSPECTION PANEL COMPLAINTS

The burgeoning global activism of the late 1980s and early 1990s brought with it a degree of criticism of certain World Bank projects.

In scattered capitals and remote sites around the world, some dissatisfied members of civil society questioned the Bank's social and environmental commitments.

The Board of Executive Directors of the World Bank took notice and responded in 1993 by creating an independent internal body, the Inspection Panel, to review such questions and complaints impartially.

The Inspection Panel investigative approach is designed to:

- Help project-affected people and communities share their voices and concerns about Bank-supported activities that impact their lives and shape their futures,
- foster redress whenever and wherever it is warranted, and
- promote institutional accountability and learning within the Bank.

By launching the Panel, the Bank's Board introduced an instrument of "bottom-up" accountability to supplement the "top-down" system already existing within the Bank's management structure.

For bottom-up accountability to achieve its important goals—and to encourage community members to contact the Bank when necessary—the Panel has been and remains accessible, credible, and impartial.

*An essential premise of Inspection Panel operations is that access to the Panel must remain free from any coercion or reprisal—a policy that reflects and reinforces the World Bank's "zero tolerance" of intimidation or retaliation.*

## 1 BACKGROUND AND CONTEXT

### a) Introduction

The World Bank Inspection Panel ("the Panel")<sup>1</sup> is committed to preventing intimidation or reprisals of any kind against anyone who submits or supports a complaint presented to it. The Panel believes that any form of reprisal threatens the integrity of the World Bank's accountability process and that a fundamental premise of the Panel's function is that project-affected persons (PAPs) can access it safely.<sup>2</sup>

The World Bank ("the Bank") more broadly also maintains a strong commitment against reprisals. The Bank states, *"We do not tolerate reprisals and retaliation against those who share their views about Bank-financed projects. Any form of intimidation against people who comment on Bank projects, research, activities and their impact, goes against our core values of respecting the people we work for and acting with utmost integrity."*<sup>3</sup>

In striving to meet the level of zero tolerance of intimidation and reprisals in the context of Panel cases, the Panel and World Bank Management (or "Management") have promptly and consistently collaborated in responding to instances of reprisal. Both the Panel and Management believe that it is through the World Bank as an institution that allegations of reprisals can best be addressed. The Panel's case record, described below, demonstrates the valuable benefits of this collaboration and the constraints inherent in rectifying reprisals.

In this advisory report (the "report") the terms intimidation, reprisals and retaliation are used generically and interchangeably to identify any sort of harmful action or conduct used by one party to discourage or prevent another party from voicing opinions or interacting with any non-judicial, quasi-judicial, judicial, or administrative recourse mechanism, or to punish another party for taking such action. This report includes some examples of reprisals allegedly experienced by Requesters<sup>4</sup> because they submitted a complaint to the Inspection Panel as well as alleged reprisals that project-affected persons and human rights defenders (HRDs) have experienced when raising issues or expressing opposition to a Bank-financed project that the Panel was reviewing. The reprisals described below also cover parties or persons who claim to have experienced retaliation due to their actual or presumed association with a Panel case; such associated persons<sup>5</sup> may include interpreters or facilitators.

This report cites various allegations of reprisals. These allegations have been presented to the Panel through Requests for Inspections or during the processing of the Requests; in some cases, allegations were presented after the case was closed. In some of the examples described below, the Panel neither investigated nor confirmed a given allegation, but the report presents the victims' experiences here as they were recounted to the Panel. It is worth noting that the Panel is not required to verify the credibility of such allegations.

b) Report Structure

This advisory report delves into the Panel’s experience and practice responding to allegations of reprisals since its inception nearly 30 years ago.

Through its case studies, the Panel offers in-depth insights from the viewpoint of an independent accountability mechanism (IAM), and disseminates information on handling the subject of reprisals—including good practices, challenges, and limitations faced—from this perspective. This report aims to raise awareness about the potential risks of reprisals and ways to identify and address such risks, and provides suggestions for safeguarding the wellbeing of individuals subjected to reprisals caused by their involvement in—or relation to—a complaint about a Bank-funded project.

The Panel believes the insights presented here will be of use to development practitioners and anyone else with an interest in or need for accountability. Hence, the objectives of this report are twofold: First, to share the Panel’s experience, knowledge, practice, and the practical steps taken to date in response to reports of reprisals.

Second, this report examines how PAPs can be preemptively protected from the risk of reprisals and remain engaged in the development process. This is important, as Requesters raise issues that are often critical for their own livelihoods and welfare, and the cohesion of their societies and families. This report also examines the limitations of the Panel and Bank Management in affording protection.

The report is divided into six chapters. Chapter 1 provides background and context. Chapter 2 introduces the key terms and concepts used throughout the report. Chapter 3 examines retaliation against contract workers such as interpreters and facilitators who support the Panel in the field and how the rule-of-law context affects accountability for reprisals. Chapter 4 analyzes quantitative and qualitative data on reprisals gathered from a cross-section of Panel cases. Chapter 5 describes the Panel’s system for dealing with allegations of reprisals. Chapter 6 presents the Panel’s insights.

The case studies and examples presented below were selected to illustrate the different types of reprisals reported by Requesters, PAPs, and associated persons, the mitigating actions the Panel and Bank Management took to address these reprisals, and the outcomes of these efforts—both positive and negative. The studies describe some Panel input or actions that brought desired results—and others that were less successful, thereby illustrating some of the limitations the Panel and Bank Management have faced on this issue. Since this report focuses on the Panel’s conduct in selected situations, the names of individuals involved are omitted here, whether or not their difficulties were publicized by journalists or others.

The Panel’s procedures allow affected people and communities to submit a Request for Inspection through local representatives. In many cases, grievances are brought to the Panel by community members representing themselves and/or others, or by local non-governmental organizations (NGOs).

A complaint to the Panel can raise the Requesters’ profiles, potentially exposing them to unwanted attention and a host of questions and suspicions about their motives and agendas. Even if their request for confidentiality is strictly observed, stakeholders (whether authorities, commercial entities, or other community members) may attempt to deduce or assume who the Requesters are. When that occurs, Requesters may be pressed, intimidated, condemned, threatened, attacked, smeared, defamed, or retaliated against for complaining to the Panel, an international oversight body external to national sovereign mechanisms. For these reasons, Requesters often approach the Panel in desperation and only as a last resort—when they believe they have no effective alternative left to them for redress. By submitting such a complaint, they often wittingly assume a potential risk of retaliation.

BOX 1: A TYPICAL PANEL CASE INVOLVING ALLEGATIONS OF REPRISALS

A few years back,<sup>6</sup> Requesters sent the Panel an email raising issues of resettlement and forced eviction. They asked for confidentiality, which was respected. Shortly after their complaint was submitted, they informed the Panel that someone was planning their “removal.” They said “two well-dressed men” had knocked on their door one evening; the next night some suspicious looking, plain-clothes police officers visited their family and business searching for them, which the Requesters viewed as a threat. Subsequently someone broke into one of their houses and stole equipment containing personal information. The Requesters summed up by saying “they are living in fear and spending their nights in different places.” They asked the Panel for relocation assistance.

With their consent, the Panel immediately told Bank Management, withholding their names and any information that could identify the Requesters. Management wrote to the Government, alerting it to the Bank’s zero-tolerance policy of retaliation in the context of its projects. The letter, which Management shared with the Panel, stated the Bank’s categorical commitment to protect Requesters, victims, and witnesses from any form of threat. The letter asked the Government to remind all project implementing entities of the importance of avoiding, and safeguarding Requesters against, retaliation. The Panel informed the Requesters about the letter, but explained that the Panel per se lacked the authority or ability to use Bank resources to relocate them.

The elements of this case illustrate the process the Panel follows regarding reports of reprisals against Requesters, what can be achieved, and the Panel’s limitations. The Panel is an independent complaints mechanism for people and communities who believe they have been—or are likely to be—adversely affected by a Bank-supported project. The Panel process gives PAPs an opportunity to present their concerns, and provides affected individuals and community members—those who believe their rights and interests may be at risk—a vehicle to bring their fears to the attention of the Bank and, ultimately, to the Board of Executive Directors.

The example in Box 1 demonstrates the chain of events and the key role played by the Bank when the Panel alerts it to incidents or allegations of reprisals. In such cases, the Panel closely coordinates with senior Bank Management, which leads the ensuing dialogue with government authorities. This case also indicates the limitations of both the Panel’s and Bank Management’s ability to provide protection once Requesters start to experience reprisals.

c) Increasing Reprisals and Their Impact

**Increasing Reprisals.** Intimidation and reprisals are growing concerns worldwide, including in the context of development projects.<sup>7</sup> In 2019, the Office of the United Nations High Commissioner for Human Rights (OHCHR) recorded the killing of 281 human

rights defenders—including 38 women—and 35 countries registered the killing of at least one HRD.<sup>8</sup> Between 2015 and 2019, OHCHR recorded 1,323 killings of HRDs—including 166 women and 22 young HRDs.<sup>9</sup>

“Intimidation and reprisals affect not only the individuals and groups directly impacted, but are alarming also for the message they send to other actors and individuals, whether from government or civil society, who wish to... express their views freely.”

–UN Secretary-General António Guterres<sup>10\*</sup>



In 2015, six of the nine Requests for Inspection (67 percent) received by the Panel included requests for confidentiality, while three (33 percent) reported fears of reprisal. In comparison, four of the five Requests (80 percent) received in 2020 asked for confidentiality and two (40 percent) conveyed Requesters' fear of reprisal.<sup>11</sup> The threat of reprisals affects not only victims and their families. It also has a serious deterrent effect on other individuals or communities raising or contemplating raising project concerns.

**Risks of Filing a Request.** In addition to the Requests it receives, the Panel commonly communicates with potential Requesters interested in filing a complaint but reluctant to do so because of what they believe are existing reprisals against them. For example, in the Brazil Paraná Biodiversity Project case in 2006, the Panel informed the Board of Executive Directors that the Requesters claimed to have been intimidated and warned not to file a Request for Inspection, and then pressured to withdraw it after they nevertheless proceeded.<sup>12</sup> The Panel noted in its eligibility report that such practice *“threatens the integrity of the Panel process and may have a chilling effect on local people who genuinely feel harmed or potentially harmed by Bank projects.”*<sup>13</sup>

In another context, the Panel met with two representatives of civil society organizations (CSOs) who were raising concerns related to an irrigation project. The representatives—acting on behalf of farmers concerned that a project would lead to the diversion of irrigation water away from their farms—approached the Panel to inquire about its process. They later told the Panel that the farmers feared retaliation from the authorities because of a national law prohibiting individuals from asking international organizations for help. Their fear deterred them from filing a complaint and seeking redress for their concerns.

In yet another example, some potential Requesters complained about the likelihood of suffering harm from project-supported involuntary resettlement. Several dozen households had received extremely

short notice to accept expropriation of their homes on the questionable justification that the houses violated city regulations. They were told if they did not consent voluntarily, their houses would be forcibly expropriated anyway. Faced with this ultimatum, the potential Requesters felt *“disappointed, helpless, and abandoned.”*<sup>14</sup> Ultimately, they were given less than a month to leave their residences. These potential Requesters further alleged that the compensation they were offered was unfair and insufficient. The Panel explained its process to them. A few months later, they explained their reluctance to submit the signatures required to initiate the Panel admissibility process owing to their fear of retaliation.<sup>15</sup>

**Impact of Reprisals.** Several Panel cases—such as the Democratic Republic of Congo (DRC) Second Additional Financing for the High Priority Roads Reopening and Maintenance Project (“Pro-Routes,” see Case Study IV), the Uganda Transport Sector Development Project (TSDP, see details below), and the Pakistan National Drainage Project (see Case Study II)—highlight the ways inadequate local grievance procedures in many communities, poor consultation by a project, and the lack of opportunities for engagement serve as major causes of community frustration and distress. These inadequacies instigated heightened tensions and opposition to these projects which, in turn, eventually led Requesters to allege various forms of reprisals and retaliation.

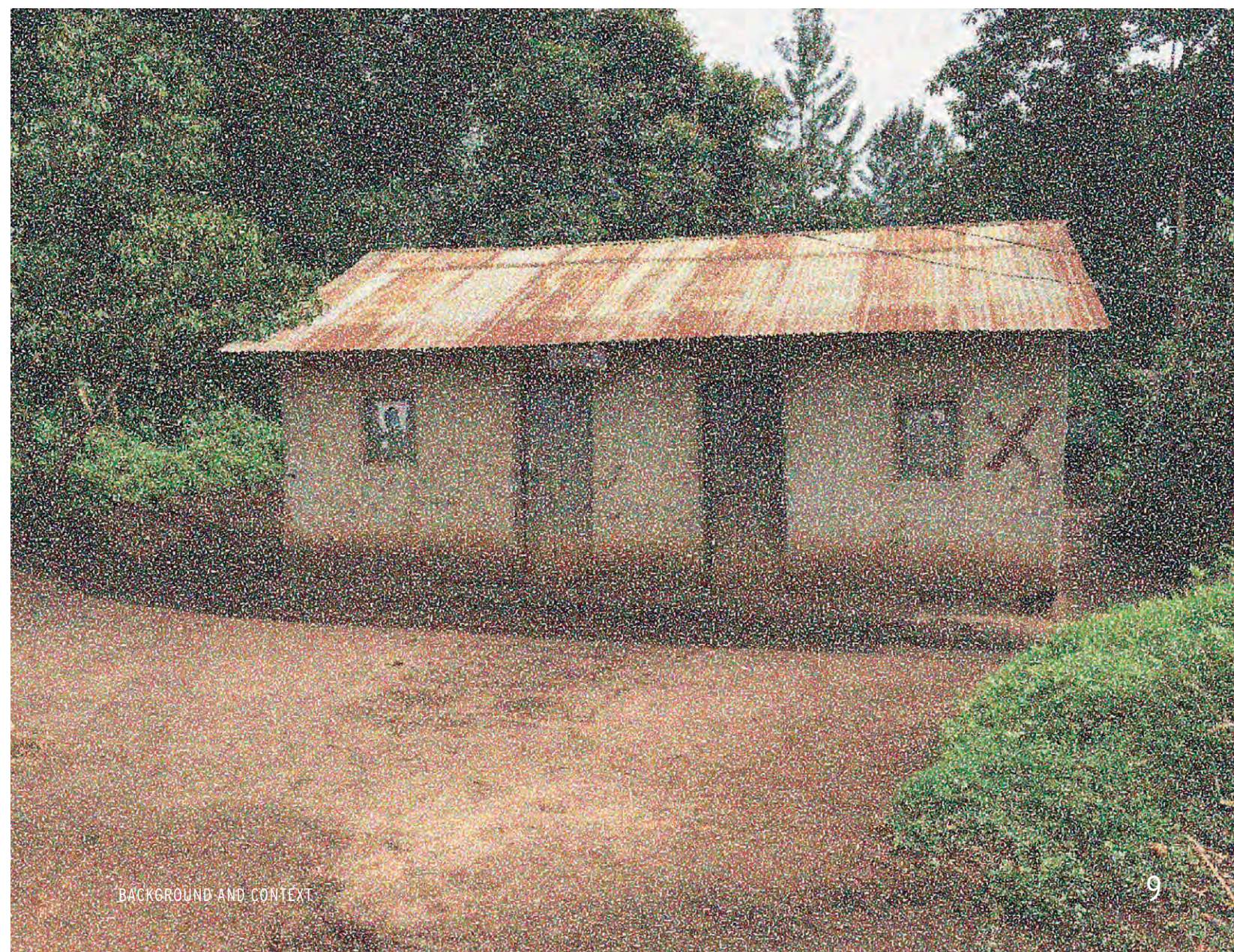
In many Panel cases, opponents of a project found themselves accused—by national and sub-national authorities—of being *“anti-development”* or *“anti-progress.”* In other cases, Requesters faced hostility and/or reprisals from within their own communities. This can happen when a community is divided about a particular project initiative.

Often Bank Management implicitly acknowledges the risk of retaliation. In the TSDP, Management noted that *“complaints about the road works [were] not welcome and may have been seen as jeopardizing the Project altogether.”*<sup>16</sup> The Requesters said the project lacked a functioning mechanism to hear and address their grievances. As a result,

community members were spending *“a lot of funds and other household resources”* to pursue their grievances. They told the Panel there were no *“dialogue meetings”* in which PAPs could air their views.<sup>17</sup>

One of the chilling effects of reprisals is the silencing of individuals—such as HRDs, witnesses, civil society representatives, or those who strive to raise issues and concerns. This can also result from reprisals against third parties—family members, colleagues, or other individuals associated with the HRDs. Awareness in the wider community of

such retaliation, in turn, often prevents PAPs from filing a complaint with the Inspection Panel or seeking redress through an independent accountability mechanism. The 2020 Annual Report of the OHCHR, for example, noted that *“repressive or restrictive environments that have led to concrete acts inhibiting cooperation with the United Nations, including self-censorship, continue to be documented and reported. When individuals, groups and communities are afraid to be associated with the United Nations, its relevance and impact is seriously undermined.”*<sup>18</sup>







## 2

# KEY TERMS AND CONCEPTS

**D**ifferent institutions have their own, discrete vocabularies to define types and attributes of reprisals. This report utilizes the terms and definitions used by OHCHR, the UN Special Rapporteur on the situation of human rights defenders,<sup>19</sup> the UN Working Group on Arbitrary Detention, Front Line Defenders—an international non-governmental organization specializing in protecting HRDs<sup>20</sup>—and other IAMs. Herein “victims” of reprisals include PAPs, persons associated with Panel cases, and HRDs.<sup>21</sup>

**Acts of Intimidation and Reprisal or Threats Thereof** include warnings or acts relating to physical harm—including death—or hardships, such as loss of employment. Threats of physical harm can be especially effective in contexts characterized by extreme violence. In many countries, threats are leveled against family members to put pressure on HRDs.<sup>22</sup> Colleagues or other community members might also be targeted. Death threats are used widely to dissuade HRDs. These are often anonymous and arrive by telephone, letter, or online.<sup>23</sup> Sometimes, however, the threats come from people known to the defenders; but even when identified, perpetrators are usually neither investigated nor charged by the police. The lack of effective police or judicial response to killings and death threats invites further violations.<sup>24</sup> The relative impunity that characterizes weak rule-of-law environments can discourage prosecution of criminal acts.

*“[T]he sub-contractor representative, speaking about the complaining landowners (though not in their presence), stated that he would ‘knock them with his car’ and that he would ‘have them shot’.”<sup>25</sup>*

**Arbitrary Detention** is depriving an individual of liberty without legal justification, or in response to a legitimate exercise of human rights—such as freedom of opinion and expression, freedom of assembly, and freedom of association—or confining refugees for exercising their right to seek asylum and/or freedom to leave their own country.<sup>26</sup>

*“The NGOs described Chad’s public consultations as ‘one way’ processes where local villages were told what was going to happen, and where free exchange of views was hampered by the presence of armed security forces, or by government representatives who would retaliate by arresting or intimidating people who spoke out against the Project.”<sup>27</sup>*

**Associated Persons** (as defined by the Inspection Panel) are individuals involved with the Panel process and may include project-affected persons, interviewees, and those assisting in the field—drivers, interpreters, facilitators, etc.<sup>28</sup>





**Break-ins and Thefts** are usually committed by unknown individuals. Often equipment and documents are stolen, thereby disrupting HRDs’ work.<sup>29</sup>

**Defamation** is the use of slanderous allegations in state-controlled or other media to attack the integrity of complainants or HRDs. Malicious accusations are fabricated to discredit independent non-governmental organizations and journalists seeking to expose human rights abuses. Defenders’ work is publicly misrepresented, and HRDs themselves are labeled terrorists, rebels, subversives, proxies of opposition parties, etc.<sup>30</sup> The resulting notoriety may expose Requesters and their advocates to additional reprisals.

*“The Requesters claim local authorities have been using social media and television to spread misinformation and defame them as well as their businesses, creating an environment of hostility where the Requesters fear for their safety.”<sup>31</sup>*

**Harassment** is almost always committed by authorities and can take many forms. These include phone surveillance, seizing or withholding travel and identity documents, disbarring lawyers, levying heavy fines for trivial, administrative transgressions, or ordering targeted individuals to report repeatedly over extended periods to an administrative office for no clear reason.<sup>32</sup>

**Human Rights Defenders** are persons or groups who peacefully promote, protect, and address environmental or human rights on behalf of individuals, communities, or other groups.<sup>33</sup> HRDs seek to advance civil, political, economic, social, and cultural rights.<sup>34</sup>

**Interrogation** often follows summons to appear before police authorities or prosecutors. Although questioning is legitimate in many cases, it is also used to deter HRDs from performing their legitimate work by implying or threatening that an investigation may be opened against them.<sup>35</sup> (See Chad Case Study.)

**Invoking Security Measures to Prosecute** is a technique employed to restrict the work of HRDs and sometimes target them. Under the pretext of security, HRDs have been prosecuted and convicted under vague laws and condemned to harsh sentences.<sup>36</sup> Such prosecutions occur when peaceful activities lead to charges of bribery, public disturbance, or hooliganism, and they often result in long-term imprisonment, forcible commitment to psychiatric institutions, or “re-education through labour.”<sup>37</sup>

**Judicial Harassment** can include criminal charges, civil lawsuits, or administrative proceedings. Accusations often used against HRDs range from violations of protest laws, NGO laws, or public order to entirely fabricated charges of terrorism, subversion, or crimes against the security of the state. Many HRDs receive long prison terms, which are used to intimidate the broader human rights community. Even when HRDs are acquitted, judicial harassment diverts time, energy, and resources away from their human rights work.<sup>38</sup> In several countries the judicial process itself is so lengthy it becomes a form of punishment.

**Physical Attack** is any type of assault carried out by uniformed police, plain-clothes agents, private security agents, hired thugs, or others. In virtually all cases, the attackers go unpunished. Attacks frequently occur when police disperse protesters during demonstrations.<sup>39</sup>

*“The first Requesters allege that when construction works started in 2016, police officers accompanying the workers reacted to a peaceful protest by using force. They claim that community members, including women and children who tried to intervene, were beaten and several members suffered serious injuries and had to go to the hospital.”<sup>40</sup>*

**Restriction of the HRD Work/Advocacy Environment** occurs when an organization is suppressed or shut down on flimsy pretexts, or its sources of funding are inappropriately cut off or limited, or efforts to register it are deliberately prolonged by cumbersome bureaucracy. State authorities sometimes delay or block meetings held by HRDs, and prevent them from traveling to investigate human rights concerns. Laws curtailing the legitimate exercise of freedoms of opinion and expression, religious belief, association, and movement—such as regulations governing the registration and activities of non-governmental organizations, or legislation banning or hindering receipt of foreign funds for human rights activities—have all been used to harass and impede the work of HRDs.<sup>41</sup>







*“The Requesters further claim that ‘NGOs involved in [the] advocacy campaign with the World Bank have been refused vital information with regard to [the] completion report of [the] Left Bank Outfall Drain Project and [the] feasibility studies of [the] National Drainage Program.’”<sup>42</sup>*

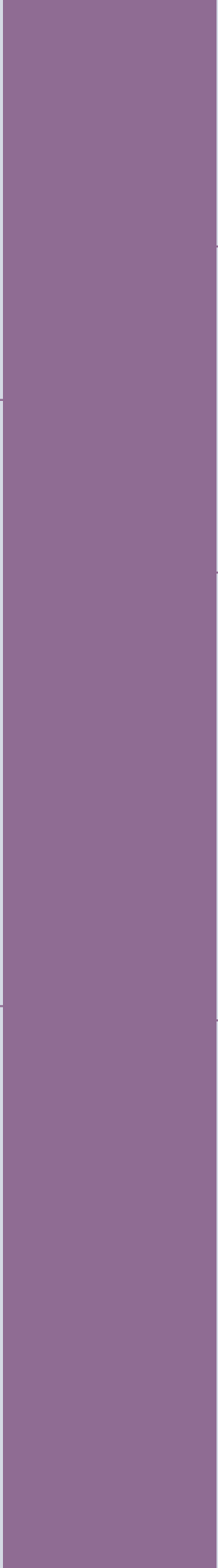
*“The Requesters referred to threats and intimidation they faced. They noted one of them was arrested under ‘trumped up charges.’ They state they received a stern warning from local administration against holding their usual residents meeting.”<sup>43</sup>*

**Retaliation** refers to any harmful act(s) performed to prevent, discourage, or punish public comment about, access to, or interaction with a judicial or administrative recourse mechanism. Retaliation can include physical, psychological, and economic mistreatment; it can take place online and in-person, and can be conducted by either state or non-state actors. Economic retaliation can be employment-related—such as demotion, disciplinary action, firing, salary reduction, job or shift reassignment, anti-union discrimination, or blacklisting. Retaliation may target people socially linked to the rights holders—including family members, friends, colleagues, etc.<sup>44</sup>

*“Women from Purani Basti said they are not being issued Gram Panchayat recommendations for aadhar cards—Indian social security cards—because they have been labeled troublemakers. They added Purani Basti is being bypassed for any new government-funded projects as it is now perceived to be an ‘anti-development’ habitation. Community members also claimed they were threatened with legal action if they continued to oppose the Elevated Storage Reservoir.”<sup>45</sup>*

**Sexual Violence or Harassment** may be committed against a person of either gender or any sexual orientation; it most often targets women. In many countries, female HRDs are perceived as defying cultural norms, and therefore face greater risks than men. Gender-Based Violence (GBV) is the Bank’s umbrella term for any unwanted action based on gender differences. GBV includes physical, mental, or sexual harm, threats of such acts, coercion, and deprivations of liberty, either in public or in private life.<sup>46</sup>

*“They treated us as animals. They forced us to have sexual intercourse with them...touched us on the breast, everywhere. When you refused, they threatened to fire you.”<sup>47</sup>*



*“One even tried to get me in the house, and I refused. I told [a coworker] and he told me this was the culture here. If I didn’t want to have sex, I could get a job somewhere else. They also deducted from my pay because I refused to have sex.”<sup>48</sup>*

**Smear Campaigns** are attacks on HRD reputations, credibility, and standing within the community. Calling HRDs “traitors,” “terrorists,” “foreign agents,” or “violent extremists” diminishes public support for their work. (Labels include “anti-state,” “anti-religious,” “agents of Western powers,” “members of armed opposition groups,” “sex workers,” “traffickers,” and “corrupt individuals.”) State-run media are often used to stigmatize HRDs and, in some countries, HRDs are attacked by the highest political authorities. Smear campaigns often precede judicial harassment.<sup>49</sup>

**Surveillance** is increasingly performed electronically, but in many countries HRDs continue to report instances of physical surveillance. This may include observing strangers patrolling near their offices or homes, or questioning neighbors about their habits or whereabouts. While some surveillance seeks to learn what HRDs are working on, it may also be used to intimidate and can foreshadow physical targeting, especially when threats have also been made.<sup>50</sup>

*“We are constantly put under surveillance. One evening I received a phone call from [the security apparatus]. The officer asked me why I was planning to meet with the Panel and what I intended to talk about. I was afraid. I don’t know how they found out. The officer insisted that I do not talk about the project.”<sup>51</sup>*

**Torture** is the intentional infliction of severe pain or suffering—physical or mental—upon a person in the custody or under the control of the authorities or others, apart from the pain or suffering arising only from, inherent in, or incidental to, lawful sanctions.<sup>52</sup> Torture of HRDs is used to obtain information or a confession, or to punish, intimidate, or coerce. Acts of torture must be carried out by, at the instigation of, or with the consent or acquiescence of a public official or other person acting in an official capacity.<sup>53</sup>

*“Those farmers who opposed the relocation, and government workers who refused to implement the program, including the Requesters and/or their relatives, have been targeted with arrest, beating, torture and killing.”<sup>54</sup>*







# 3

## COMMITMENTS AGAINST REPRISALS

### a) The World Bank's Commitments Against Reprisals

In March 2020, the World Bank announced its “*commitments against reprisals*,”<sup>55</sup> which affirm that its environmental and social policies and their supporting guidance include strong commitments against reprisals or retaliation. The Bank acknowledges that listening to people’s voices is critical to its work, adding that it has high standards of stakeholder engagement to ensure that clients achieve the best possible development outcomes. The Bank therefore welcomes views about the projects it supports, and does not tolerate reprisals or retaliation against those who voice them. When allegations of such reprisals come to the Bank’s attention, it works with the appropriate parties to address them.

“The Bank’s vision goes beyond  
‘do no harm’ to maximizing development gains.”<sup>56</sup>

**Reprisals Affecting Bank Contract Workers.** While it is important to safeguard Requesters and HRDs who file complaints against Bank projects, protecting contract workers directly engaged by the World Bank is also necessary. These contract workers—who serve as facilitators, interpreters, negotiators, etc.—can also become the targets of intimidation or retaliation, since they are sometimes perceived as “*collaborating*” with a “*foreign agency*.”

The Bank has developed a framework for the safety of the individuals it contracts directly. This framework, which deals with threats to Bank personnel, is also applied to those hired by the Panel during the period of their employment. A threat is defined as “*the intent and capability of an adversary to initiate an undesirable event.*”<sup>57</sup> According to this framework, the duty of care is the obligation of the Bank is to do all that is reasonably practicable to ensure the operational security and safety of individuals in the conduct of their duties. Bank standards and practices must match or exceed those of comparable international organizations.<sup>58</sup> The Bank’s legal department, human resources department, and others play primary roles in providing necessary safeguards. The operational security duty of care provided under this framework does not extend to employees of third parties contracted to provide services for—or on behalf of—the Bank;<sup>59</sup> the duty of care to such individuals rests with their employer(s).

In the Protection of Basic Services Program Phase II Additional Financing and Promoting Basic Services Phase III Project (PBS III) in Ethiopia, an individual contracted by the Panel for a short time in February 2014 was arrested in March 2015, after the contract term had ended. This individual was accused of terrorist activities; a few years later, all charges were dropped. Under the Bank’s framework, the World Bank no longer had a duty of care towards the individual, who was no longer employed by the Panel when arrested. The process followed is described in Case Study I.



## CASE STUDY I

### 2012–ETHIOPIA: PROTECTION OF BASIC SERVICES PROGRAM PHASE II ADDITIONAL FINANCING AND PROMOTING BASIC SERVICES PHASE III PROJECT

#### TYPES OF ALLEGED REPRISALS FACED—PROSECUTION, ARREST WITHOUT CAUSE, UNLAWFUL DETENTION, AND SILENCING

**Context.** In May 2006, the World Bank started supporting the Protection of Basic Services program through several operations.<sup>60</sup> The third of these—PBS III—sought to expand access to and improve the quality of basic services. The program provided block grants to ensure adequate staffing and operations and to strengthen the capacity, transparency, accountability, and financial management of government offices at regional and local levels.

In September 2012, two local representatives acting on behalf of 26 Anuak Indigenous Peoples from the Gambella region of Ethiopia submitted a complaint to the Panel. They asked that their identities remain confidential “*due to grave concerns about [their] personal security and that of [their] relatives.*”<sup>61</sup>

During its investigation, the Panel hired a facilitator for case-related field work that lasted several days. At the time, the facilitator was a known indigenous, land rights defender from the Gambella region. In March 2015, more than a year after the facilitator finished working for the Panel, the person was arrested while traveling to attend a food security workshop supported by two well-known international organizations. The facilitator was detained without charges for six months. Several months after the arrest, on September 7, 2015, Ethiopian

authorities charged the person with terrorism, conviction of which could result in a sentence of 20 years to life in prison. In April 2018, just over three years after the arrest, all charges were dropped and the facilitator was released.<sup>62</sup>

**Actions and Outcomes.** Although the facilitator was no longer employed by the Panel, once it learned of the arrest, it immediately informed Bank Management. The regional team, the Bank President, and relevant Executive Directors then reached out to government authorities. Management informed the Panel that the Bank’s formal response included a letter from the Country Director based in Addis Ababa requesting release of the individual. This appeal was unsuccessful.

In September 2015, shortly after learning about the charges filed against the facilitator, the Panel issued a press release expressing its concern. In the release, the Panel announced its concern for this individual—who had assisted its field work on PBS III—and that since the arrest, senior staff at the Bank checked frequently with the Government of Ethiopia regarding the individual’s safety. The Panel also called on the Government to ensure that due process and other protections under the rule-of-law were respected.<sup>63</sup> During a six-month period the Panel issued two press releases expressing its

concern. Two-and-a-half years later the charges were dropped.

**Key Takeaways.** This case study raises two points. First, it shows the different categories of reprisal victims. In this case, the victim was an individual previously employed by the Panel for its field work. It highlights the vulnerability. People such as translators, facilitators, mediators, or HRDs enjoy little or no Bank protection from reprisals. As was true of the facilitator here, HRDs who experience reprisals often engaged in multiple activities. After they assist on a Panel case, it can be difficult to determine whether subsequent reprisals stem from their general history of activism or their specific involvement with the Panel. Regardless, it is important that the Panel apply its guidelines and commitment against reprisals when *anyone* involved in a Panel case suffers reprisals. Second, the high visibility of this case and the prosecutorial and judicial processes used against one individual can intimidate others who assist Panel investigations, and possibly imperil accountability for development overall.

This case is also an example of the Panel’s and Bank Management’s inability to gain the facilitator’s immediate freedom. Bank Management was told that the facilitator was involved in terrorist activities—charges which complicated the facilitator’s release. Once those charges were dropped, with hindsight the wider message of the person’s incarceration—i.e., as a warning to others—became more apparent. The case is a reminder that prevention is a far better safeguard than later corrective action, and it prompted the Panel to reinforce its precautionary procedures (see following paragraphs). This case study raises questions for Bank Management and the Panel about how best to guarantee that contract workers can engage freely and safely in assigned tasks without facing retaliation for that work. It is particularly challenging to Bank Management, since the Bank cannot intervene

between citizens and their government agencies, nor question government actions towards its citizens when these occur outside agreed arrangements with the Bank.

Furthermore, the Bank’s framework of accountability for its security management system<sup>64</sup> only protects direct employees *during their employment*. The arrest in this case occurred more than a year after the Panel contract had ended. By then, the individual had lost the protection and duty of care afforded by the framework discussed above.

For the Panel, the matter is particularly important. What due diligence and filters should the Panel apply when hiring translators or facilitators? What assurances of safety can the Panel offer such individuals, especially if their ongoing activities as HRDs or community leaders are already under the scrutiny of the authorities?

Several lessons from this example have been applied to subsequent cases. The Panel now exercises greater due diligence and takes more preemptive steps before individuals are hired, especially in high-risk contexts. The Panel asks potential contract workers whether they are active HRDs or are being targeted by authorities. In deciding whether to hire someone, the Panel weighs the risks to the individual against the Panel’s ability to offer protection. This does not preclude highly exposed individuals from being hired, but rather ensures that this decision is made with an informed understanding by both parties of the risks and protections available should reprisals occur.



## b) Safe Access to Complaint Mechanisms

From the Bank's perspective, people who feel they have been negatively affected by a project are entitled to seek redress free of reprisals;<sup>65</sup> a safe complaint system is essential for development. Third parties—not necessarily the Requesters themselves—can bring concerns to Management's attention. Under the Panel process, in-country Management should have the first opportunity to respond to such claims. If Requesters remain dissatisfied after this initial effort, they can escalate their concerns to the Panel.

### How the Rule-of-Law Context Affects Accountability for Reprisals

Requesters' access to potential redress or remedies through the Panel ultimately falls under the protection of national laws and, therefore, is affected by the broader, rule-of-law environments in project countries.

This is particularly important in countries affected by fragility, conflict and violence, where the discrimination, inequality, and human rights violations may be pervasive. Weak rule-of-law generally brings high risk of reprisals. There is well-documented impunity from prosecution for perpetrators of reprisals in many countries, owing to poor law enforcement.

In the Uganda TSDP case, the Panel noted that the *"community is largely dependent on subsistence agriculture and suffers from under-resourced government institutions, weak law enforcement, tolerance of violence against women and girls, lack of access to appropriate sexual and reproductive health knowledge and services for adolescents, and high prevalence of HIV/AIDS."*<sup>69</sup> In the DRC Pro-Routes Investigation Report, the Panel observed that, *"despite such legal protections, law enforcement remains weak."*<sup>70</sup>

Many Bank borrower countries rank quite low on the World Justice Project's Rule-of-Law Index, and relatively few rank medium or high.<sup>71</sup> A significant majority of the Panel cases alleging reprisals against



Requesters were in countries with low ranks on the Index. This has important ramifications for PAPs wishing access to the Inspection Panel or other national or international grievance redress mechanisms, since filing a complaint—even when confidentiality is requested and possible—raises their vulnerability. The Panel has, for example, known for two years of an emerging complaint held by potential Requesters who have a well-founded fear of persecution; they began the filing process, only to withdraw at the last minute owing to their dread of reprisals.

## CASE STUDY II

### 2004–PAKISTAN: NATIONAL DRAINAGE PROJECT

#### TYPE OF ALLEGED REPRISAL FACED—DETENTION

**Context.** In September 2004, seven individuals submitted a complaint to the Panel on behalf of themselves and *"2,000 others who live in the area known as district Badin, Sindh, Pakistan"* in the Indus River Basin.<sup>66</sup> The Requesters raised concerns related to the Bank-supported construction of drainage infrastructure and related saline effluent disposal.<sup>67</sup> They claimed the project adversely affected the downstream wetlands and interconnected lakes—known as Dhands—in southern Sindh at the tail end of the Indus River system. These Dhands were the source of livelihood for 40 fishing villages with a combined population of 12,000–15,000. The traditional and small fishermen of Badin and Thatta protested the loss of their traditional fishing grounds; an NGO they established played a leading role in these protests. Shortly before the Panel's visit, the NGO leader scheduled to meet with the Panel was temporarily detained by local authorities until after the Panel's visit.<sup>68</sup>

**Actions and Outcomes.** The NGO informed the Panel of this detention, and the Panel passed on

this information to Management. The Bank then immediately sent a letter to the Government, resulting in the leader's release.

**Key Takeaways.** This case demonstrates the effectiveness of individual initiatives—even the poorest and most vulnerable citizens could nevertheless organize themselves to be heard—and the personal cost of such actions.

Unlike most other cases, here there was no ambiguity regarding the link between the reprisal and the victim's involvement in the Panel process; this arrest was directly connected to a planned meeting. But this case again exposes the limitations of the Panel, which had to rely on Bank colleagues. In this case, as in all cases, the Panel had no direct role or ability to seek the victim's release.

It also highlights the importance of creating and protecting civil society space to enable affected parties to organize themselves to articulate their concerns. This is critical to ensuring that affected people's voices are heard at the Bank.





# 4 INSPECTION PANEL DATA ON REPRISALS

In this chapter, the Panel uses quantitative and qualitative data to present trends observed throughout its nearly three decades of existence. However, because so many cases of reprisal go unreported, the Panel's record does not fully reflect the extent to which such acts occur, or measure their total impact on victims or potential Requesters.

## a) What the Data Shows

**Increased Requests for Confidentiality and Reports of Retaliation.** Through June 2021, the Panel had received 150 Requests for Inspection.<sup>72</sup> In some instances, the Panel received multiple Requests regarding a given project. For this publication's purpose, when these Requests were received within the same year or when they concerned the same Requesters or circumstances of alleged reprisal, they have been considered a single case.<sup>73</sup> As such, the 150 Requests are considered here as 128 Panel cases. Of those 128 cases, 40 percent (50 cases) included allegations of reprisal, 47 percent (60 cases) contained requests for confidentiality, and 29 percent (37 cases) had both.<sup>74</sup> Fifty-seven percent of the 128 cases (73 cases) had either an allegation of reprisal or a request for confidentiality. In some of the projects, reprisals recurred.

During its 28-year history, the Panel has learned of several reprisal incidents, including reports of harassment and threats. As seen in Figure 1, over time the Panel has observed a general rise in the number of Requesters asking the Panel to ensure confidentiality.

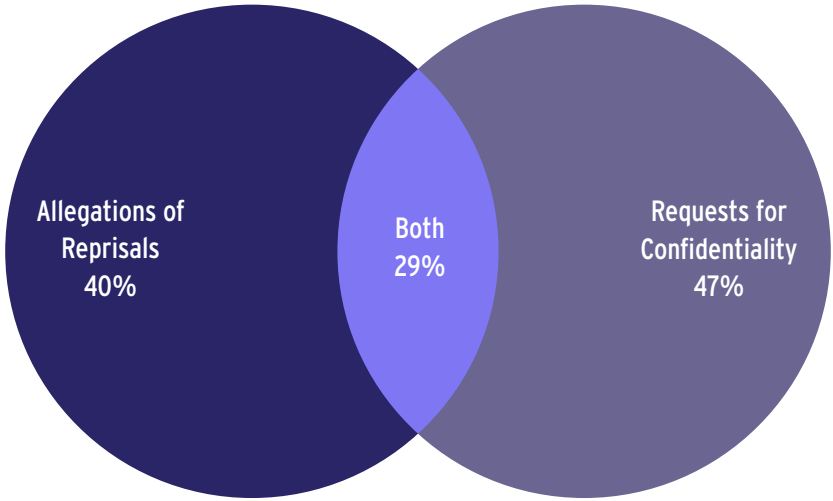
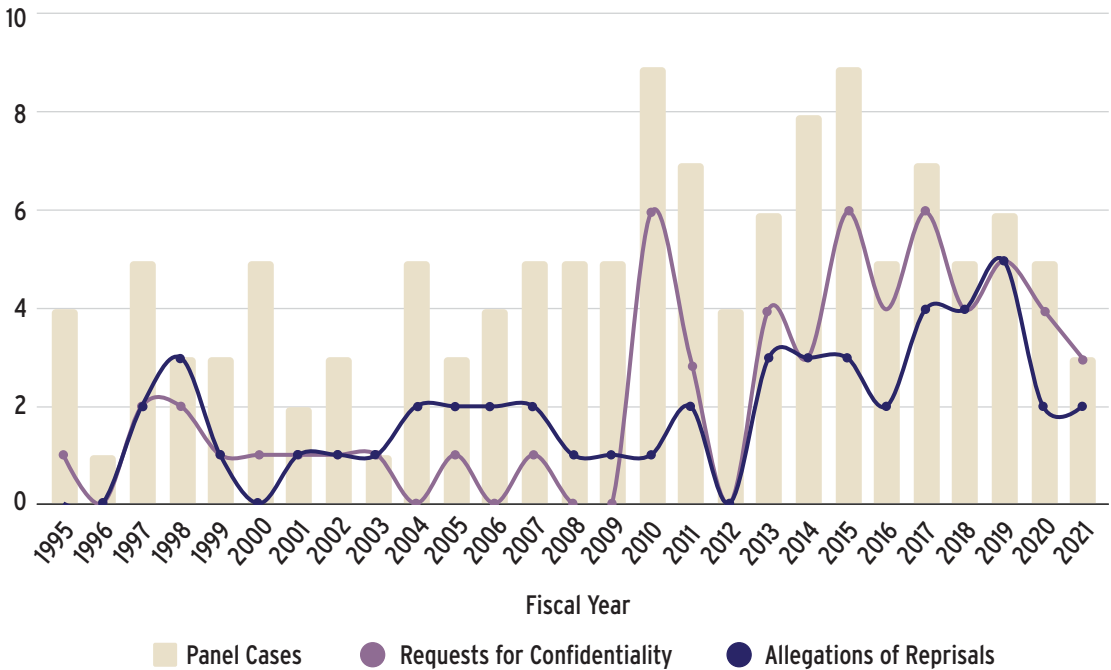




FIGURE 1: TRENDS IN INSPECTION PANEL CASES

Allegation of Reprisals and Requests for Confidentiality,  
Fiscal Years (July 1-June 30) 1995-2021<sup>75</sup>



**More Prevalent Reprisals in Land Projects.** Of the 50 out of 128 cases mentioned above that had allegations of reprisals, 86 percent (43 cases) related to land concerns. Most of these—60 percent (26 cases)—involved land-taking for infrastructure purposes; 16 percent (seven cases) involved taking land for natural resource management, 14 percent (six cases) for extractives, and nine percent (four cases) for land management and zoning projects. Requests involving 15 of these cases were brought by indigenous or disadvantaged communities. Land-taking disproportionately affects indigenous communities as they have stronger attachments to their land; this often fuels their greater resistance or opposition to projects. According to a 2020 Front Line Defenders’ report, 69 percent of all HRDs killed in 2020 addressed land, indigenous peoples, or environmental rights issues, and 26 percent worked specifically on indigenous peoples’ rights.<sup>76</sup> From 2015 to 2020, two-thirds of all attacks on HRDs were directed at land and environmental defenders.<sup>77</sup>

A useful example of a Panel case concerning land tenure is a complaint submitted in September 2009 by communities alleging adverse effects from the Land Management and Administration Project in Cambodia. The Requesters asked the Panel to keep the names of affected people and villages confidential. They claimed 4,250 families would be evicted as a result of the project and that residents began facing pressure and intimidation to leave the area when the developer commenced its work in 2008. The following year, many households received formal eviction notices with a one-week deadline to accept one of three compensation options. The Requesters emphasized that hundreds of families had already been evicted from their land and pressured into accepting “*inadequate compensation under conditions of duress.*”<sup>78</sup>

Upon receipt of the complaint, the Panel informed Bank Management of the seriousness of the claims. Management acknowledged the issues and encouraged the Government to see that no evictions would be carried out. In assessing Bank Management’s

compliance, the Panel found that the evictions violated the Bank Policy on Involuntary Resettlement and resulted in “*grave harm to the affected families and community.*” During the Board discussion, World Bank President Robert Zoellick said the Bank was deeply troubled and frustrated that people were being forced from their homes. He added that the Bank had repeatedly asked the Government to end the evictions.<sup>79</sup>

After the Bank suggested suspension of the project pending discussions on the application of its safeguard policies for handling resettlement issues, the Government canceled the project’s financing. The Bank then suspended new lending to Cambodia,<sup>80</sup> the suspension lasted for five years.

According to UN records, between 2015 and 2020 the region that consistently recorded the highest number of human rights defenders killed—933 of the 1,323 total killings reported during those years—was Latin America and the Caribbean.<sup>81</sup> In 2020, of the 331 HRDs killed, 79 percent (264) were in the Americas and 16 percent (54) were in Asia and the Pacific.<sup>82</sup>

**More Prevalent Allegations in Africa, South Asia.**

The Panel’s case record shows that Africa is the continent that has the most allegations of retaliation (20), followed by South Asia (10), and Latin America and the Caribbean (eight). Of the nine Panel cases in East Asia and the Pacific, 89 percent (eight) involved requests for confidentiality, and 44 percent (four) involved allegations of reprisals.<sup>83</sup> This does not necessarily mean intimidation and reprisal threats are higher in these regions than in others. Rather, it could indicate strong and active civil society in these countries, or that reporting is better there than in countries with unreported or underreported reprisals.

**Requests from the Community.** Figure 3 shows that Requests for Inspection received from the community tend to have more allegations of threats of retaliation and more frequent requests for confidentiality than Requests filed by local civil society organizations.

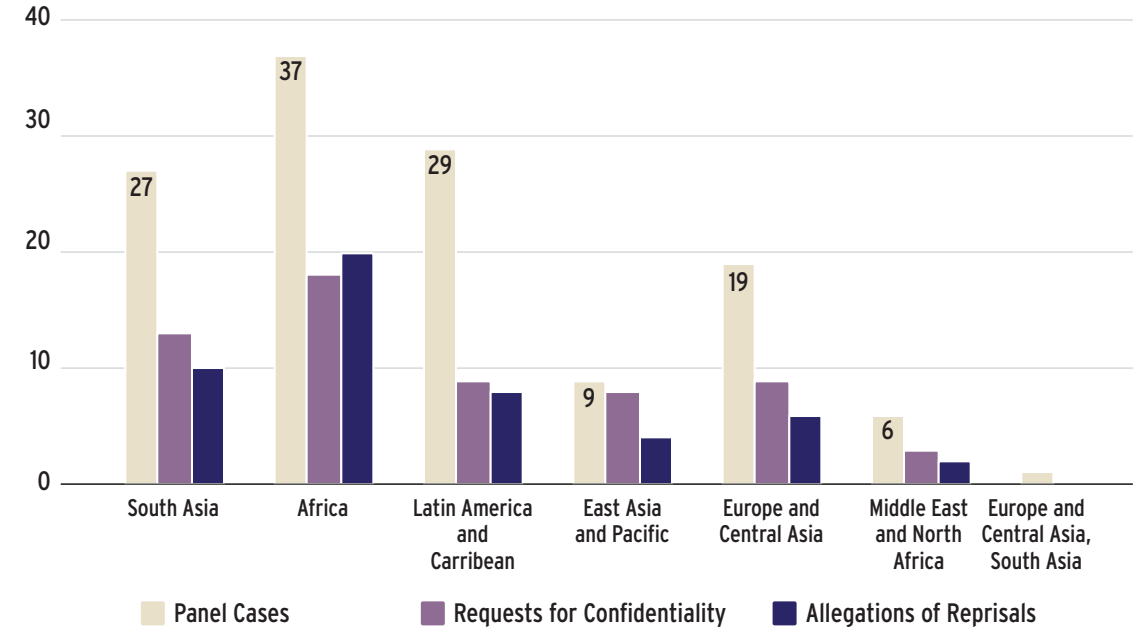
TABLE 1: ALLEGATIONS OF REPRISALS IN PANEL CASES INVOLVING LAND PROJECTS SINCE 1995

Type of Land Project	# Cases with Alleged Reprisals	% Cases with Alleged Reprisals	# Cases Affecting Indigenous Communities	% Cases Affecting Indigenous Communities
Infrastructure	26	60.5%	5	33.3%
Extractives	6	14.0%	2	13.3%
Natural Resource Management	7	16.3%	5	33.3%
Land Management and Zoning	4	9.3%	3	20.0%
Total	43		15	

TABLE 2: PREVALENCE OF ALLEGATIONS OF REPRISALS AND REQUESTS FOR CONFIDENTIALITY BY REGION SINCE 1995

World Bank Region	% Alleged Reprisals	# Alleged Reprisals	Total # of Cases	World Bank Region	% Requests for Confidentiality	# Requests for Confidentiality	Total # of Cases
Africa	54%	20	37	East Asia & Pacific	89%	8	9
East Asia & Pacific	44%	4	9	Middle East & North Africa	50%	3	6
South Asia	37%	10	27	Africa	49%	18	37
Middle East & North Africa	33%	2	6	South Asia	48%	13	27
Europe & Central Asia	32%	6	19	Europe & Central Asia	47%	9	19
Latin America & Caribbean	28%	8	29	Latin America & Caribbean	31%	9	29
Europe & Central Asia, South Asia		0	1	Europe & Central Asia, South Asia		0	1

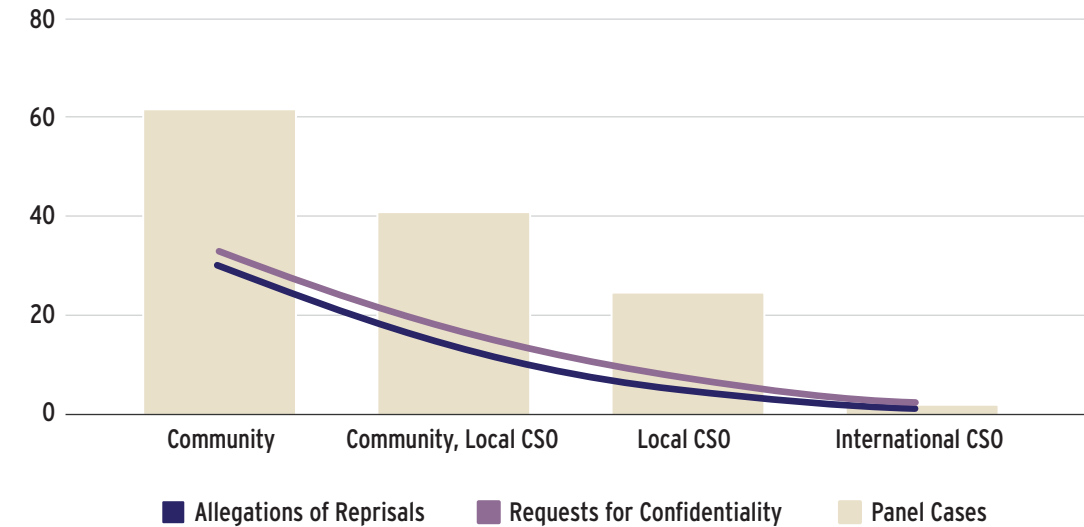
FIGURE 2: REGIONAL DISTRIBUTION OF REQUESTS FOR CONFIDENTIALITY AND ALLEGATIONS OF REPRISALS SINCE 1995



In terms of gender, most Requests were brought to the Panel by males in the affected communities. According the Front Line Defenders’ 2020 report, 13 percent of the HRDs killed were women.<sup>84</sup> Female

HRDs are vulnerable to additional danger since the threats and attacks they suffer are often accompanied by gender-based violence, torture, and harassment.<sup>85</sup>

FIGURE 3: ALLEGATIONS BY TYPE OF REQUESTERS



**Correlation Between Incidences and/or Allegations of Reprisal and Lack of Meaningful Consultation.** The data reveal that as community members voice their concerns about a project their likelihood of being victimized is greater when meaningful consultation in project implementation is lacking and there are no safe spaces in which to raise these concerns. According to the Business and Human Rights Resource Centre’s (BHRRC’s) 2020 Annual Report,<sup>86</sup> there were 604 documented attacks on defenders working on business-related human rights issues—up from 572 attacks in 2019. The report also states that “at least one third of all attacks stemmed from lack of meaningful participation, access to information and consultation, or the failure to secure free, prior and informed consent of local and indigenous communities.” In Panel cases, Requesters reported inadequate consultation in 24 (48 percent) of the 50 cases where allegations of reprisals were made.

In the DRC Pro-Routes case,<sup>87</sup> the Panel’s Investigation Report noted that a weak consultation process deprived the project’s risk assessment of important information about concerns of the affected communities. As a result, potentially adverse impacts and related mitigation measures were overlooked in project design. The Panel’s investigation determined that weak community participation and lack of sensitization and preparation of

the community for the project’s potential social risks contributed to the adverse effects on the community. The Panel also noted that continuous consultations throughout project implementation could have helped identify warning signs and prevented some of the harm that occurred.<sup>88</sup> It observed that, once harm is perceived, affected individuals have to take a strong position to draw attention to their situation, which heightens their visibility, making them more vulnerable to retaliation.

In this same case, the Requesters told the Panel they were unaware of any grievance redress mechanism (GRM) prior to submitting their Request. Community members also said that when they tried to voice grievances related to damaged drinking water systems and the excessive use of force the contractor’s military personnel barred them from the contractor’s basecamp. This left the local population with no way to voice their concerns about the project and, in the absence of a functioning GRM, the project implementing agency and Management missed important warnings of problems.<sup>89</sup>

The case study below on the India Rural Water Supply and Sanitation Project for Low Income States demonstrates the importance of meaningful consultation and the continuous presence and engagement of all stakeholders—especially PAPs—in project design and implementation.

## CASE STUDY III

### 2018–INDIA: RURAL WATER SUPPLY AND SANITATION PROJECT FOR LOW INCOME STATES

#### TYPES OF ALLEGED REPRISALS FACED—INTIMIDATION, REFUSAL TO PROVIDE WORK PERMITS AND CERTIFICATES, AND JUDICIAL HARASSMENT

**Context.** This case concerns two Requests related to the India Rural Water Supply and Sanitation Project for Low Income States. The Requests were submitted by 104 Santhal tribal community members from Giddhi Jhopri and by 130 Santhal and Ho tribal community members from Purani Basti in the State of Jharkhand, India. The Requesters asked for confidentiality.<sup>90</sup>

The Requesters expressed concern about the construction of an elevated storage reservoir that they claimed was built on their communal land without adequate consultation or disclosure. They stated that the construction sullied the historical and cultural significance of their land, disrupted their traditional agriculture, and would ultimately impoverish them. The Requesters also alleged lack of consultation and disclosure of information; they repeatedly complained that community members were not consulted prior to key project-related decisions and that they could not access project documents.

In the second Request, the Requesters also expressed fear of retaliation.<sup>91</sup> The second Requesters stated they “*fear there may be reprisals [...] for complaining.*”<sup>92</sup> They contended that community members were threatened with “*dire consequences*” when they tried to protest against

the construction of the elevated storage reservoir on their land.<sup>93</sup>

During the Panel’s eligibility visit, community members voiced fears about intimidation and reprisals. They told the Panel that women and children from Giddhi Jhopri had experienced retaliation during construction of the Bagbera water treatment plant. In July 2016, several individuals—including women, who are particularly vulnerable—were allegedly hospitalized due to police violence at a peaceful community protest.<sup>94</sup> The Panel also read a news clipping with pictures of the incident that reported that 88 police personnel stood guard at the construction site.<sup>95</sup> Community members told the Panel that police were present at some of the community meetings in their villages, creating an atmosphere of intimidation.<sup>96</sup>

They alleged that the police presence in the meetings was intimidating to the community. Allegedly, as per Requesters’ statements, it hindered meaningful consultation and it did not allow for meaningful participation of the community in the design and implementation of the project. According to the Request, “*There cannot be a free and open consultation in such a coercive environment with the presence of police.*”<sup>97</sup>

Community members also told the Panel the Government opened police investigations against 39 people in 2016 but had yet to charge them formally.<sup>98</sup> In their view, the authorities had not formally charged them or closed the police files to instill in the community a continuous fear of prosecution.<sup>99</sup> The Panel heard from Requesters that they had difficulty obtaining “*character certificates.*”<sup>100</sup> They explained these certificates are required for employment and, therefore, their absence has a direct negative impact on individuals being able to secure jobs and maintain livelihoods.<sup>101</sup>

Two aspects of this case demonstrate the gender impact of retaliation: Women and children suffered physical violence, and women were deprived of documentation needed to obtain or continue employment (character certificates). The Requesters also alleged that the exclusion of women from consultations made the retaliation against them more apparent.

These aspects highlight the vulnerability of female Requesters in regard to gender-related structural violence and to economic retaliation, which increases the gender gap.<sup>102</sup>

**Actions and Outcomes.** Management was aware of community opposition to the project. As noted in the Management Response to the first Request, in May 2016 Management carried out a compliance review of social safeguards and social development issues. This review flagged the “*constant opposition*” from the local tribal community and noted that there were gaps in consultations during the planning of the alternative site. Despite this, Management acknowledged that no formal communication from the Bank to suspend works pending resolution of these issues was sent. In its response, Management

also acknowledged that considering these events, a more proactive follow-up with the project authorities should have taken place to appropriately understand and address what appeared to be significant resistance to project implementation.<sup>103</sup>

**Key Takeaways.** The allegations of reprisals in this case study highlight how active retaliation can be orchestrated against entire communities, and not just an individual, an NGO, or close associates and family. It also flags the importance of adequate due diligence by project staff to create appropriate safeguards against the risks of reprisal for community members opposing the project. It begs the questions: Did the police presence in the area constitute an intimidation factor pressuring the community to accept the project? Could meaningful consultations have contributed to an environment free of intimidation and coercion? How could meaningful consultation be guaranteed in such a context? What measures could have been put in place to prevent the intimidation and retaliation from occurring?

This case shows the challenges of applying Bank policy requirements. It underscores the need to consider how adequate and meaningful consultation can be achieved where the extremely poor and vulnerable are pitted against those with overwhelming authority, influence, or control over police.

This case emphasizes the importance of designing a stakeholder engagement plan to increase the safe space for communities to express their views. If strong consultation and participation processes—including functioning grievance mechanisms—are built into project design and implementation, communities are less likely to oppose the project. This, in turn, reduces the risks of reprisals.



b) Types and Sources of Reprisals

According to a Front Line Defenders' report, 85 percent of HRDs killed in 2019 were previously threatened individually or as part of the community or group in which they worked.<sup>104</sup> In the Panel's experience, acts of reprisals are not only conducted against the Requesters. In some instances, they specifically target prominent community figures with histories of challenging authority. For these individuals, a Panel case can become an excuse or a catalyst for authorities to act against them.

The Panel cases involving the facilitator in Ethiopia (see Case Study I) and the opposition leader of the legislature in Chad (see Case Study VII, below) provide two examples of this.<sup>105</sup> These individuals—each of whom had a history of contesting national policies—faced severe retaliation. The alleged reprisals ranged from intimidating comments on an anonymous phone call to solitary confinement and acts of torture. In nine Panel cases, Requesters faced prosecutions that resulted in detention or arrest. In one case, a Requester was tortured.<sup>106</sup> The facilitator mentioned above was held in solitary confinement and tortured before the charges were dropped. In four cases, individuals were denied public services

and in two others people were forcefully evicted from their homes. In more recent cases, Requesters allegedly faced death threats, and in the Cusco Transport Improvement Project (see Case Study V, below) opponents of the road project alleged that they were subjected to an online smear campaign and attacks from community members who labeled them “anti-development.”<sup>107</sup>

According to the BHRRC's 2020 Annual Report, in more than half of all cases defenders experienced judicial harassment (including prosecutions based on trumped-up charges and arbitrary detentions). Front Line Defenders' 2020 Annual Report cites arrest and detention as the most commonly reported violations used by states to undermine or stop the work of HRDs.<sup>108</sup> Fear of reprisal was present in 35 of the 50 cases where allegations of reprisals were made, while intimidation was reported in 28, and arrests or detention in 13.

Of the same 50 cases, 45 allegedly involved the central government and 12 allegedly involved local authorities. Figures 4 and 5 and the case studies below demonstrate the types of alleged reprisals and the scope and variety of alleged perpetrators involved.

FIGURE 4: TYPES OF ALLEGED REPRISALS AND NUMBER OF OCCURRENCES THROUGHOUT PANEL CASES

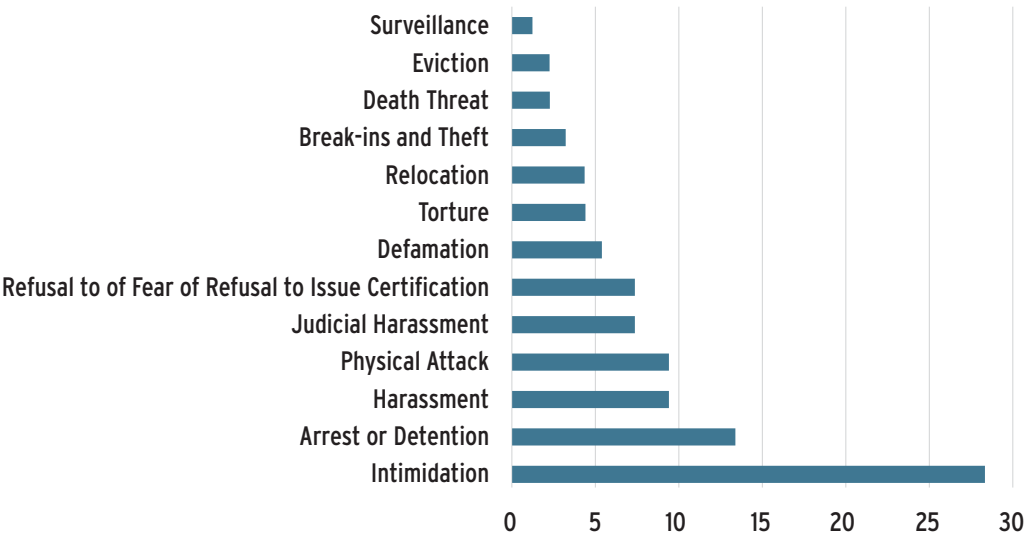
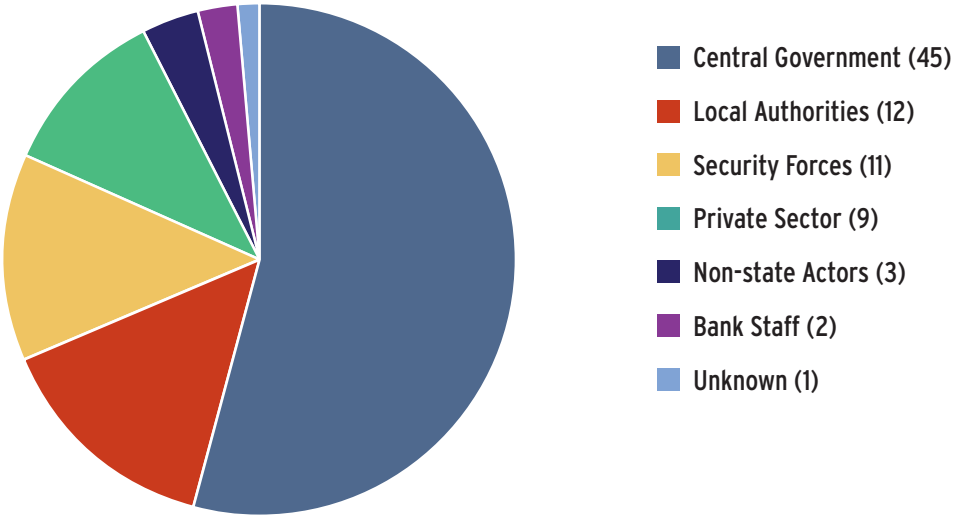


FIGURE 5: DIFFERENT SOURCES OF ALLEGED REPRISALS IN PANEL CASES





## CASE STUDY IV

### 2017–DEMOCRATIC REPUBLIC OF CONGO: SECOND ADDITIONAL FINANCING FOR THE HIGH-PRIORITY ROADS REOPENING AND MAINTENANCE PROJECT

#### TYPES OF ALLEGED REPRISALS FACED—ACTS OF VIOLENCE AND THREATS OF INTIMIDATION

**Context.** In August 2017, the Panel received a complaint concerning the Pro-Routes Project in the DRC. It was submitted by two community members who alleged harm from the Bukavu-Goma road

works financed under the project. The alleged harm consisted mainly of lost property but included lost livelihoods, gender-based and physical violence against members of the community, labor issues,

and impact on indigenous peoples. The Requesters asked for confidentiality. The Bank partially suspended the project in November 2017.

The Panel's investigation revealed repeated cases of GBV ranging from sexual harassment to sexual exploitation, abuse, and rape; harm to livelihoods—particularly the removal of building materials from quarries by force and without compensation—and poor community and occupational health and safety measures that led to injuries among community members and workers. The Panel's Investigation Report acknowledged the substantial and serious efforts undertaken by the Bank to address the GBV and other issues related to the project.<sup>109</sup>

**Actions and Outcomes.** The Requesters were convinced they had experienced retaliation for raising their concerns. The Panel and Management consistently pressed the Government of the DRC about the issues raised, particularly those pertaining to the threat of physical violence. Management cited the importance of protecting affected individuals from retaliation. However, the Panel continued to receive reports of allegations of violence against dissenting community members. The Panel met with Bank Management several times to explore ways to alleviate the pressure felt by the Requesters. The Bank took several steps to address this issue, including offering to meet one of the Requesters in another country, repeatedly reminding the Government of the Bank's zero tolerance toward reprisals, and discussing the predicament of the human rights defenders and the Requesters' specific situation with Front Line Defenders and the UN Special Rapporteur.

The Panel also received reports that a Requester was being harassed by multiple sources—including local authorities, security forces, the contractor, and some community members. The precise reasons and details were difficult to ascertain due to the many issues surrounding the allegations. However, of relevance here is that the individual received a protection grant from Front Line Defenders and was moved to a neighboring country. Sadly, despite relocation the individual and the individual's family remained fearful and threatened.

**Key Takeaways.** This case demonstrates that diverse perpetrators of reprisals can operate simultaneously. In this instance, the Requester felt threatened from different sources: local authorities, security forces, the contractor, and community members. The intra-community tension resulted from a perception among some community members that the Requester—who had become increasingly outspoken against specific, project-related issues—opposed development.

The case also underscores the important assistance specialized organizations can give victims. Front Line Defenders provided resources to relocate the victim to a safer environment. Such support affords victims at least temporary relief, so they can continue their work. In certain circumstances, the Panel can play a role by informing a victim about specialized organizations that could provide direct assistance.

The victim here continued to alert the Panel about recurring intimidation even after the construction was completed and the project was closed. The Bank's staff regularly responded to the victim. However, Bank influence—always limited—was greatly diminished once the project ended.





## CASE STUDY V

### 2020-PERU: CUSCO TRANSPORT IMPROVEMENT PROJECT

#### TYPES OF ALLEGED REPRISALS FACED—THREAT OF INTIMIDATION, SOCIAL MEDIA SMEAR CAMPAIGN, AND DEFAMATION USING SOCIAL MEDIA AND OTHER MEDIA CHANNELS

In 2020, three individuals submitted a complaint about the Cusco Transport Improvement Project in Peru<sup>110</sup> that aims to improve mobility in the east-west corridor of the Cusco Provincial Municipality. The Requesters said their land was being taken without compensation to make way for the Via Expresa Avenue. They alleged a lack of consultation and disclosure of information, raised concerns about retaliation, and asked the Panel to keep their identities confidential.

Throughout the Panel process, these Requesters repeatedly reported suffering significant retaliation for voicing their views. They claimed they were publicly intimidated by local authorities verbally and through online threats to scare and discourage them from complaining about the project. They believed a social media smear campaign was being waged against them and their businesses, intent on defaming them as obstacles to the avenue

and influencing public opinion against them. The Requesters cited the re-postings of social media articles featuring their photographs, and alleged the use of televised campaigns influencing the general public to take sides and join an alleged smear campaign against them by posting offensive comments. They said these actions negatively raised their profiles and caused them to fear for their safety.<sup>111</sup>

**Actions and Outcomes.** After obtaining the Requesters' permission to take action, the Panel broached these concerns with Management, and did so every subsequent time it learned of an alleged incident. As part of its tracking system, the Panel compiled a chronology of all reported threats, intimidation, physical attacks, defamation, and the social media smear campaign, as well as the sources of such alleged retaliation.

In response, Management took several actions, including reviewing the recordings of public consultations and examining video footage of a code enforcement action in the project area. Through letters and meetings, Management asked the Cusco Regional Government at the highest levels to remind all implementing agency staff of the Bank's zero tolerance for retaliation against the Requesters and other project stakeholders, and gave notice it was monitoring the situation and would involve central government authorities if need be.

The Bank checked and determined that no project staff had posted defamatory or threatening comments about the Requesters on social media. The Bank clearly stated in the Management Response to the Request that it condemned the use of threats and defamatory comments by social media users against any project stakeholders.<sup>112</sup>

**Key Takeaways.** The harassment and retaliation alleged in this case were largely based around the use of social media, not only to discredit the Requesters' reputations, but also to mobilize public opinion to pressure them, and make them fear attack—not just from the authorities, but also from members of their own communities. The online campaign demonstrates the ease with which social media can provoke and sharpen public opinion, and

how difficult it is to control inflammatory postings and their negative effects.

The Peru Cusco case is another example of how the Panel could raise concerns of alleged retaliation with Management. Due to its working relationship with the authorities, Management was able to emphasize at the highest levels of the Government the seriousness with which the Bank took any allegation of retaliation or intimidation, and to reiterate the institution's zero-tolerance position.

While the Bank could actually observe—by reviewing video footage—whether public authorities committed some of the alleged violence and hostility against the Requesters, it was far more challenging to determine if social media was a tool of reprisal. The Requesters were convinced the authorities were behind the smear campaign that targeted them, and were using it to foment local sentiment against them. The Bank found no evidence of direct involvement of project staff in posting defamatory comments.<sup>113</sup> Nevertheless, since social media can be used indirectly by proxies or anonymous contributors, the Bank could make no conclusive finding of either culpability or exoneration, and therefore reemphasized its commitment against reprisals and retaliation.



# 5

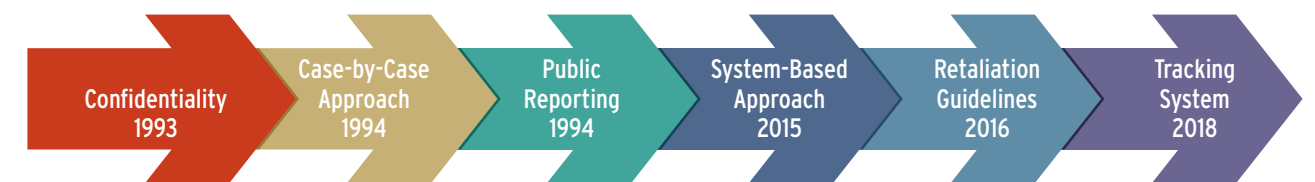
## EVOLUTION OF THE PANEL'S APPROACH TO ADDRESSING REPRISALS

From the time of its establishment, the Panel has been aware of the potential for reprisals against—and the victimization of—those who use its process to raise complaints. Historically, the Panel addressed the reports of reprisals on a case-by-case basis. However, with the increase in reported incidents of reprisals and the issuance of its 2016 Retaliation Guidelines, the Panel has taken a more systematic approach to addressing allegations. The incremental progress made by this approach is expected to continue in the coming years. Similar transitions are occurring at different paces at other IAMs.

### a) Incremental Progress

From the Panel's inception, its legal framework has had stringent requirements regarding confidentiality, which have been conscientiously applied. The diagram below illustrates how the Panel evolved from a case-by-case to a systematic approach to addressing reprisal issues. (This report constitutes yet another step in the Panel's work on retaliation.)

FIGURE 6: PANEL TIMELINE ESTABLISHING  
A SYSTEM TO ADDRESS REPRISALS



**Confidentiality.** Shortly after the Panel was established in 1993, it developed strict procedures to protect Requester confidentiality—if asked to do so—to prevent any intimidation or reprisals. The Panel's 2014 Operating Procedures provide that Requesters need not approach the Bank themselves,<sup>114</sup> but could instead rely on trusted intermediaries. Other IAMs also allow complaints to be submitted on the basis of confidentiality.

When Requesters ask for confidentiality, the Panel takes many measures to protect their identities, such as redacting Requesters' names, locations, and other identifying information from the Request for Inspection before it is used. The Panel gives Requesters a detailed explanation of how it will do this.<sup>115</sup>

Since its first case—the Nepal Arun III Proposed Hydroelectric Project in 1994—the Panel has provided confidentiality. In that case, Requesters, fearing retaliation from the authorities, asked for confidentiality. The



Panel realized early on that preserving Requester confidentiality was essential to a successful process, and if ignored or handled perfunctorily could discourage many communities from seeking redress for harm resulting from Bank-supported projects.

Panel procedures allow affected people to submit a Request through a local or national representative—such as an NGO. An example of this is the Uganda TSDP case, where Requesters asked Joy for Children Uganda to represent them before the Panel.

In exceptional cases—where the Bank’s Executive Directors agree that the initiator of a complaint lacks access to appropriate local representation—an international NGO can bring it to the attention of the Panel.<sup>116</sup> Moreover, a World Bank Executive Director may—on his or her own initiative and with the concurrence of the entire Board—require the Panel to conduct an investigation on an issue that is of concern to the Board. This has occurred once in the Panel’s history when, in 1999, a complaint was submitted by the International Campaign for Tibet (ICT) concerning the Western Poverty Reduction Project in China. Since ICT was not a local NGO, the Board considered whether appropriate local representation was available. During that discussion and following China’s withdrawal of the loan application, an Executive Director requested an investigation into the project.

**Case-by-Case Approach.** Beginning with its first case, the Panel has utilized carefully selected techniques to meet with individuals who felt under pressure without revealing who they are. For example, to help minimize risk of exposure, the Panel compartmentalizes the information it receives by employing different interpreters for different meetings. Similar steps are taken when arranging transportation. In the field, Panel teams sometimes use satellite phones—or other means of communication that are difficult to trace—to verify facts on the ground.

In many cases, Bank staff or the Bank’s security team has explicitly advised the Panel to take

precautions during a given investigation. The Panel’s specific methodology—whether based on the Bank’s advice, external stakeholders’ suggestions, or even the Requesters’ wishes—is always tailored to the unique context and challenges at hand, thereby requiring a case-by-case approach.

IAMs in general are still developing their systems to prevent and address instances of reprisals. Mechanisms that conduct dispute resolution have the parties commit not to pressure or intimidate one another. The Complaints Mechanism of the European Investment Bank requires that participation in mediation be voluntary, based on trust and confidence, and that parties engaged in it “refrain from exerting any pressure on any of the participants in order to prevent them from expressing themselves.” It also requires that parties agree “not to act in any way that could be considered as retaliation against any of the individuals participating in the mediation, before, during and after the mediation sessions.”<sup>117</sup>

**Public Reporting.** The Panel was the first IAM to report on reprisals in case-related documents. This practice commenced early in its operations and continues to this day. (In its Retaliation Guidelines the Panel commits to “mention[ing] all instances of threats, intimidation or other retaliation in its eligibility and investigation reports, while respecting the confidentiality of complainants and interviewees, unless those affected request the Panel not to do so.”) In the first such report (April 2000), the Panel noted that a field visit “yielded some disturbing and dramatic examples of what can only be described as a climate of fear, through which some individuals nevertheless managed, at great perceived risk, to express their opposition to this Project.”<sup>118</sup>

In 2002, the Panel informed the Board that during its field visit a Requester “told how she was summoned by the Chef de Canton after visiting Nigeria’s oil region in Ogoniland. She stated that she was not arrested or harmed but questioned.”<sup>119</sup> The Panel added that several leaders and organizations with whom it met said they felt harassed at times,

though “they have expressed their opinions about the Project without incurring physical violence.”<sup>120</sup> The Panel also reported that one NGO “has been prohibited by the government to operate.”<sup>121</sup>

The Panel again felt the need to alert the Board to a case in Liberia in 2011. The Panel reported that members of the affected community “have been put under pressure and intimidation since bringing their complaint to the Panel.” This was “of great concern to the Panel, firstly in terms of the implications for the affected people themselves, and secondly for its potentially deterring effect on the ability of people to bring their concerns to the Inspection Panel without fear of reprisal, thus undermining the integrity of the Inspection Panel process and ultimately the Bank’s accountability.”<sup>122</sup> The Panel noted the importance of stopping such actions, citing Management’s commitment to address the issue with Liberia’s highest authorities.

In 2018, the Office of the Compliance Advisor Ombudsman (CAO)—the IAM of the International Finance Corporation—started reporting annually on incidents of reprisal. In its 2019 Annual Report, the CAO wrote that complainants in 36 percent of cases mentioned reprisal risks, up from 23 percent in the 2018 fiscal year.<sup>123</sup> According to that report, the accusations were most prevalent in East Asia and the Pacific, where complainants in half the cases raised reprisal concerns. This was followed by Sub-Saharan Africa, and Europe and Central Asia (both at 42 percent). Threats were also alleged in Latin America and North Africa. CAO indicated that in more than 55 percent of such mentions, complainants claimed the threats came from government authorities, in 44 percent of cases from client companies, and in a few instances the sources remained unknown.

**System-Based Approach.** In 2015, the Panel started incorporating a section on reprisals in its admissibility analysis regardless of whether Requesters asked for confidentiality or claimed fear of reprisals. Since March 2012, the Panel has systematically assessed reprisals and recorded its findings internally. This is accomplished by performing desktop review, assembling the research

of NGOs—such as Human Rights Watch, Amnesty International, Front Line Defenders, CIVICUS, etc.—that track human rights violations, and analyzing information provided by the World Bank Country Office staff, the Bank’s security personnel, Requesters, and civil society.

In 2019, the Independent Consultation and Investigation Mechanism of the Inter-American Development Bank Group released a “Guide for Independent Accountability Mechanisms on Measures to Address the Risk of Reprisals in Complaint Management.”<sup>124</sup> This comprehensive guide includes specific tools and tips for assessing the level of risk to complainants and others associated with IAM activities; developing strategies to reduce such risk; responding to alleged threats and reprisals; ensuring safer communication and confidentiality; building internal capacity, and working with parent institutions to increase awareness and responsiveness.<sup>125</sup>

**Guidelines.** In March 2016, the Panel was the first among IFIs and IAMs to issue guidelines that included specific, preventive and precautionary measures<sup>126</sup> for addressing retaliation.<sup>127</sup> These guidelines stress that any form of retaliation threatens the integrity of the Bank’s accountability process, and may have long-term effects on a project’s quality and the willingness of affected people to voice their concerns about it.

The guidelines were developed after the Panel learned of alleged reprisals against Requesters and others associated with Panel cases—such as the serious incidents linked to the Ethiopia PBS III (Case Study I), the Chad Cameroon Pipeline (Case Study VII), and the Uzbekistan Second Rural Enterprise Support (Case Study VI) projects. These guidelines firmly established the Panel’s commitment against any forms of reprisal, and aimed to reduce the risk of intimidation and reprisals against Requesters, their family members and representatives, and any other person associated with the Panel process. The Panel’s Retaliation Guidelines are disclosed on its website. It includes the three-step process for addressing reprisals described below.



FIGURE 7: RETALIATION GUIDELINES—  
THREE-STEP PROCESS FOR ADDRESSING REPRISALS



**I. Assessing the Risk of Retaliation.** The Panel assesses the likelihood of retaliation upon receiving any complaint-related communication that mentions or implies such risk exists. As described above, this is done by collecting data and information from a variety of sources. Findings are recorded in the Panel’s internal key issues note.

The Panel continually reviews and updates these risk assessments throughout its process in consultation with the Requesters and their representatives. The Panel often prompts Requesters and associated persons to consider their security and always encourages them to report any threat or occurrence of retaliation. If the Panel deems retaliation is imminent, it alerts Management, which will consider steps to increase the security of the potential victims. This often includes formal correspondence from Management to the Government urging it to remind all project proponents that the Bank does not tolerate reprisals, that retaliation against anyone expressing any views about projects it supports must be prevented and, if discovered, must be stopped immediately. This was the case for projects in Pakistan (2006), Uganda (2014), the DRC (2017), Kenya (2019), and Peru (2020). In a 2001 case in Chad, the President of the World Bank went beyond sending a formal letter and telephoned the President of Chad directly, urging him to

secure the release of a Requester from government custody.

**II. Implementing Preventive Measures.** The tactics used to preempt retaliation are specific to each case, informed by the risk assessment, and developed in consultation with the Requesters where applicable. They consider issues such as country context, gender, race, ethnicity, age, disability, the sexual orientation or gender identity of the Requesters, or other status. Measures can include special means and scheduling of communication, the location and timing of meetings, means of transportation, the use of trusted intermediaries, selection and use of interpreters, facilitators, and other consultants, and the involvement of expert intermediaries for people with special needs. The Uzbekistan case study below illustrates how the Panel put such preventive measures into practice.

As noted above, if Requesters ask for confidentiality, the Panel sees that all identifying information in its possession is closely held and protected. To help maintain confidentiality, the Panel carefully plans field visits and communicates continuously with Requesters about logistical matters (transportation, methods of communication, times and places to meet, etc.) to ensure they are neither exposed nor identified.



As required by its legal framework, the Panel keeps a low profile during its site visits to avoid attracting media or public attention. During such visits, the Panel typically records information but omits the identities of interviewees. The Panel and its consultants at all times keep their notebooks and electronic devices in their personal possession or in secure locations. Where the security situation may be volatile, sensitive electronic information is encrypted.

Consultants, interpreters, and facilitators hired by the Panel are informed of the need and reasons for protecting information and must sign confidentiality agreements as part of their contracts. Following the lesson learned in the Ethiopia case discussed above, when the Panel process may put interpreters or facilitators at risk, the Panel informs them

of its risk assessment and gives them the opportunity to decline the assignment. The Panel keeps the personal and contact details of interpreters and facilitators confidential. Where the Panel’s own security may be at risk, the final decision on whether and how to visit an area lies with the Panel members in close coordination with the Bank’s security services.

Throughout its process, the Panel actively monitors potential retaliation. This includes asking each Requester if anyone closely associated with him or her had any security concerns or faced any problems, particularly following site visits. The Panel provides all interviewees with its contact details, and urges them to reach out to the Panel, either directly or indirectly, should any security issue develop.



## CASE STUDY VI

### 2013–REPUBLIC OF UZBEKISTAN: SECOND RURAL ENTERPRISE SUPPORT PROJECT AND ADDITIONAL FINANCING

#### TYPES OF ALLEGED REPRISALS FACED— FEAR OF REPRISAL, BEATING, THREATS, AND SURVEILLANCE

**Context.** Since declaring its independence from the former Soviet Union in August 1991, Uzbekistan has followed a strategy of gradual transition from a planned economy to a market economy. In the cotton and wheat sectors—referred to as “*centralized crops*”—the Government imposes a state procurement quota system, which for many years was associated with the use of forced adult and child labor, especially in cotton harvesting.<sup>128</sup>

In September 2013, the Panel received a Request for Inspection of the Second Rural Enterprise Support Project and its Additional Financing. The project aimed at providing sub-loans through selected financial intermediaries to increase productivity, strengthen the financial and environmental sustainability of agriculture, and boost the profitability of agribusinesses in the project area.

Three Uzbek NGOs submitted the complaint on behalf of themselves and the signatories, who requested confidentiality. The complaint said the signatories were “*farmers, children, university students, public-sector workers, private-sector workers and parents.*”<sup>129</sup> The Requesters alleged they had been forced to provide labor during the cotton harvesting season, and that this had impaired their health, safety, economic wellbeing, and the

education of their children.<sup>130</sup> They claimed children were picked up by buses at schools at the beginning of the harvest season and sent to cottonfields, where they lived in dormitories or similar quarters from September to November annually while they picked cotton. They said the authorities also ordered adults to work the fields to meet quotas.<sup>131</sup>

After receiving the complaint, the Bank engaged with the Government of Uzbekistan. The Government thereupon committed to enforcing contractual arrangements with the financial intermediaries and the laws prohibiting child and forced labor, and to implement third-party monitoring of both practices, while continuing to discuss these key issues with the International Labour Organization.<sup>132</sup>

**Actions and Outcomes.** In this case, the NGO representatives and other signatories of the Request feared for their safety. Two of the representatives lived abroad in exile, while the third had endured reported reprisals in Tashkent. The Panel noted that the Requesters were deeply concerned about facing retaliation for raising their complaints. During its two field visits, the Panel team learned an activist had been beaten and saw pictures of the injuries. The team also heard that the offices of a human rights NGO were raided, and electronics seized.<sup>133</sup>

Two journalists told the Panel team they were under surveillance and faced reprisals and intimidation for reporting on labor practices. The team was asked to meet an activist in a forest, away from prying eyes; as precautions against shadowing, the team switched cars and drivers to attend this meeting.

The Bank learned of the general risk of reprisal against HRDs monitoring the cotton sector. In a preparatory meeting with the Bank, the Panel team was briefed on the context of a post-Soviet Union nation and the structural changes Uzbekistan was undertaking. In such a difficult national and project context—where surveillance was historically commonplace and therefore highly plausible—the Panel team was advised on how to exercise caution in all forms of its communications, when holding discussions in public and when using translators and drivers, and the risk of exposing individuals.<sup>134</sup> The Panel followed the advice of the Bank and the stakeholders on the ground—including representatives of international organizations.

When mid-level officials insisted on accompanying it throughout its visit, the Panel appealed to the highest levels of the Government, explaining that privacy was necessary to conduct credible work focused solely on the issues raised in the complaint. The Government of Uzbekistan agreed to the Panel’s request and instructed its officials to stop accompanying it to meetings outside the Government. The Panel used two translators, one assigned to meetings with officials and the other for discussions with affected people. With these precautions taken, the Panel noted it received no reports of reprisal during its visit or shortly thereafter.

**Key Takeaways.** This case illustrates the different precautionary measures exercised by the Panel in a challenging, post-Soviet environment. In Uzbekistan, the alleged risk of reprisals was both high and potentially severe, given the context of the project and the country’s inherent conditions. When conducting its work, the Panel paid foremost attention to Requester and stakeholder safety. It endeavored to protect confidentiality. In consultation with its stakeholders, the Panel identified preventive measures—specific to this case—to deal with communications, meetings, transportation, intermediaries, and interpreters. During its visits, the Panel asserted its prerogative to implement any additional measures it deemed necessary. Panel members constantly revisited, discussed, and adapted these measures while in the field.

This case demonstrates that even in difficult national and project contexts—and while taking robust precautions—the Panel could successfully appeal to senior government authorities to respect its independence while conducting fieldwork. By clearly explaining the purpose and objectives of its work to the authorities, the Panel was able to remove encumbrances and protect the safety of individuals, albeit temporarily. (The Panel later was made aware of continued alleged reprisals against HRDs.)

The Panel’s experience and the precautionary practices exercised during this case served as key inputs and provided solid, empirical data when the Retaliation Guidelines were developed in 2016. Clearly, even in authoritarian contexts additional logistical preparation and coordination with the Bank can help achieve some level of protection.



**III. Responding to Retaliation.** The Panel largely relies on the Bank's relations with national authorities to seek the cessation of threats and improve safety. Unlike the Panel, the Bank has a portfolio that spans multiple operations, an in-country presence in the majority of countries in which it operates, and a longer timeframe for the project than a typical Panel case. This makes it easier for the Bank to approach the authorities and assert its commitment against any form of reprisals—whether perpetrated by an official, a company, a contractor, a community member, or local thugs. For example, in the TSDP case and another case involving a road project in Uganda—the North Eastern Road-corridor Asset Management Project—the Uganda National Roads Authority (UNRA) placed a public notice in local newspapers expressing its opposition to retaliation and intimidation.<sup>135</sup>

**Tracking System.** As a further step to avert reprisals, the Panel developed a confidential, internal tracking system in December 2018. All claims of intimidation and reprisals are entered into this data management tool that monitors the evolving risk of each specific complaint and the Bank response(s) to it. This tracking mechanism helps measure trends and efficiency in handling these claims. The tool also documents and creates formal, institutional memory on all types of intimidation and reprisals and how they have been addressed.

The Panel's reliance on—and the importance of—seeking Bank assistance to address incidents and allegations of reprisals cannot be overemphasized. Although not a protocol, current Bank practice upon receiving Panel notice of a threat is to issue a formal letter to authorities requesting action to cease intimidation or reprisals immediately, regardless of their source. If Requesters continue to suffer reprisals, the Bank can escalate its reaction. This may even include direct intervention by the Bank President—as with the Chad-Cameroon pipeline project (see Case Study VII, below)—or collective

action by senior Bank Management and the Board of Executive Directors.

The Bank has greater influence over a project entity should it be the source of reprisals—especially during the term of the project—than it has over a community or a non-state actor.<sup>136</sup> For example, in the case of the India Amaravati project,<sup>137</sup> Requesters alleged several incidents of intimidation and coercion—including suppression of farmers' protests against a land-pooling scheme. In response, Management hired an NGO to monitor the use of the GRM and identify instances of intimidation, coercion, and retaliation. Management also monitored media outlets in Andhra Pradesh daily for reports of possible pressure. An independent expert contracted by Management to evaluate the land acquisition process assessed concerns related to coercion.<sup>138</sup> Similarly, in the Cusco Transport Improvement Project case in Peru—as mentioned above—Management reviewed all social media posts to see if project staff were posting defamatory or threatening content.<sup>139</sup>

### b) Outcomes

Where serious allegations of reprisal are made and a person is sequestered, pursued, or legally harassed, it is relatively easy to measure the effectiveness of a response—especially when the source of the reprisal is known and is a government authority. The cessation of such acts is the benchmark of success.

However, in cases of low-level reports of intimidation—which often go unreported and can either be one-off or recurring—it is harder to measure success.

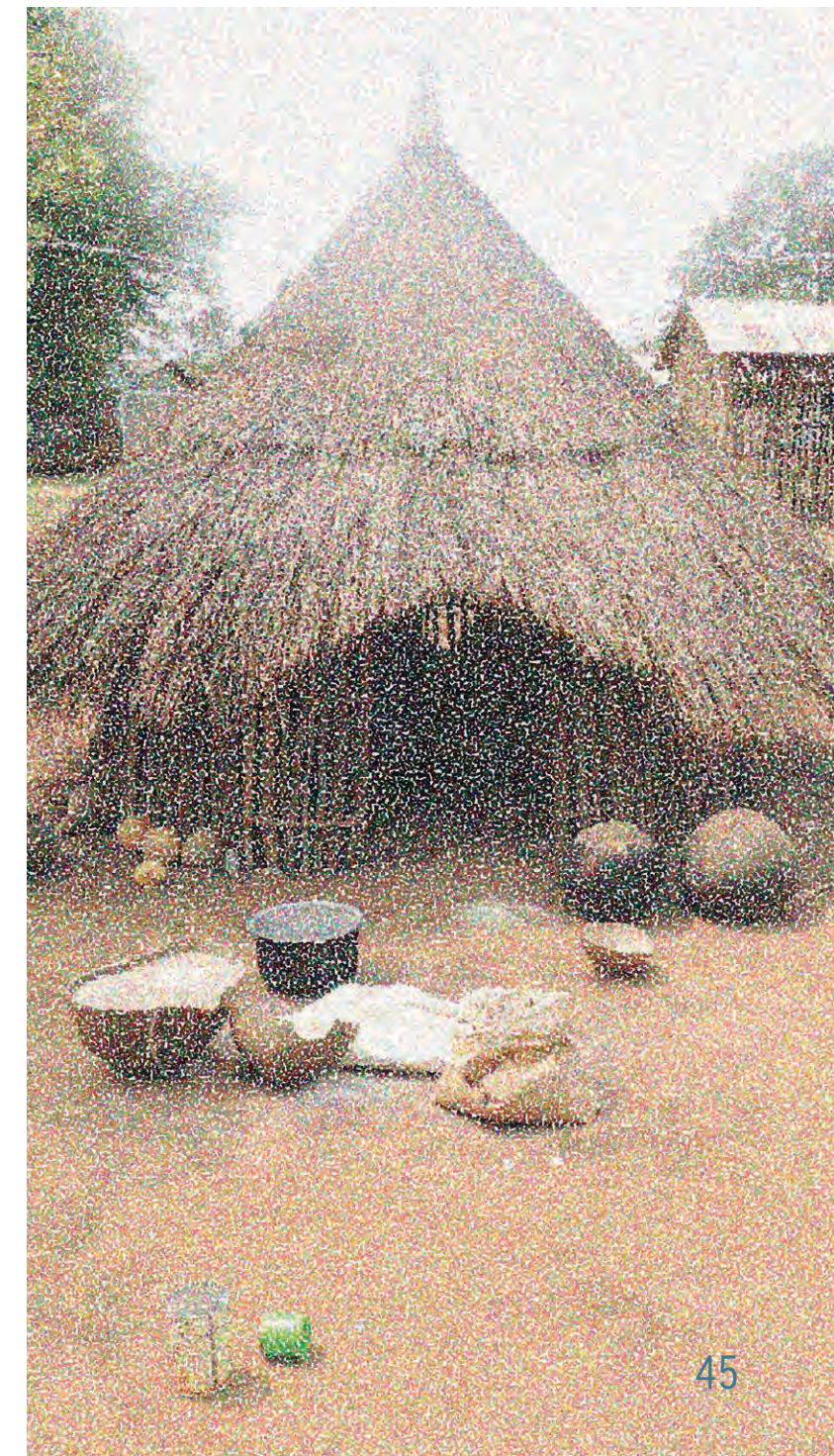
The Uganda TSDP investigation is a positive example of how the Bank, the Government, and the project implementing entity—UNRA—successfully collaborated to manage fear of reprisals. In this case, the Requesters raised concerns about retaliation, “political interference,” and “antagonism [towards] those reporting” concerns. In response, the Bank acted directly and through UNRA. UNRA agreed to monitor the project for any occurrence of retaliation. Following an August 2015 mission, the

Bank engaged with community members, including by establishing a dedicated communication channel to allow Requesters to alert the Bank directly if they experienced retaliation.<sup>140</sup> Management informed the Panel that the Government of Uganda ordered law enforcement agencies to pursue allegations of retaliation promptly. The Panel Investigation Report noted “the situation has changed over the past 12 months. At the time of the Panel's Investigation visit, there was more openness and willingness to speak about issues that were formerly considered too damaging or discomforting to air publicly. Nevertheless, the Panel believes it is prudent to remain cautious and vigilant, even though as of the drafting of this report, the risk of retaliation seems to have decreased.”<sup>141</sup> In November 2015, UNRA prepared its plan for preventing and mitigating retaliation.

In short, the scale and extent of Bank responses are proportional to the risk and nature of reprisals. The Bank has many points of leverage and influence—starting with the in-country team, the Country Director, the Vice President of the region, and ultimately the Bank President and the Board of Executive Directors. As seen in the TSDP case, the Bank can work together with a government and a project implementing entity to manage fear of reprisals successfully.

When the Bank's influence fails to achieve its intended goal—i.e., the safety of an individual—the victim can seek assistance from specialized organizations, such as the European Union consortium for HRDs.<sup>142</sup> For instance, as described above in the DRC Pro-Routes example (Case Study IV), the Requester who claimed to have experienced threats received support from Front Line Defenders and, as a result, was able to move to a secure location. Providing such support is not easy—it requires resources, the willingness of another country to receive the HRD, and the permission of the originating country for the HRD to leave.

As stated earlier, the Panel relies on the Bank's influence, goodwill, and relations with national authorities to stop threats and protect Requesters against reprisals. In many ways, the Panel and Bank operations, while independent of each other, must work in partnership to protect Requesters against reprisals.





## CASE STUDY VII

### 2001-CHAD: PETROLEUM DEVELOPMENT AND PIPELINE PROJECT, MANAGEMENT OF THE PETROLEUM ECONOMY PROJECT, AND PETROLEUM SECTOR MANAGEMENT CAPACITY BUILDING PROJECT

#### TYPES OF ALLEGED REPRISALS FACED— ARBITRARY DETENTION, TORTURE, AND ARREST WITHOUT CAUSE

**Context.** The Chad-Cameroon Oil Pipeline project was the largest energy infrastructure development on the African continent in 2001.<sup>143</sup> It involved the construction of a 1,100-kilometer-long export pipeline from Chad to the coast of Cameroon.

An opposition leader—a former parliamentarian who represented more than 100 PAPs—submitted a complaint to the Panel in March 2001. The Requesters claimed the pipeline construction threatened their local communities, their cultural property, and the environment due to the inadequacy of the project’s environmental assessment and compensation. They said local communities were neither informed about nor consulted on project decisions relevant to them. In late 1999, prior to the submission of the Request for Inspection, the opposition leader had been arrested and—following the Bank’s intervention—released.

**Actions and Outcomes.** In May 2001—two months after the Request was submitted—the opposition leader was again arrested along with five other opposition members of parliament. Upon news of this arrest, the Panel’s Chairperson contacted the Bank President, who then called the President of Chad to secure the Requester’s release. A few hours later the leader was discharged and flown to Paris for medical treatment.

Shortly after the Requester’s release, a Panel team visited the Requester at the hospital, where the opposition leader revealed scars, bruises, and

other contusions that supported the leader’s testimony of the alleged torture while incarcerated. The Requester told the team a main reason for the arrest was the submission of the Request to the Panel. The Requester said the interrogators wanted to know every detail of the complaint—how it came about, how the Requester learned about the Panel, who the leader was representing, etc. The Requester felt the arrest and torture were motivated by the Government’s eagerness to retaliate against the people involved in this complaint, and its desire to send a clear message to anyone contemplating other complaints about the project, which would have a chilling effect on the community. The Requester thanked the Bank President and the Panel for what the Requester considered their life-saving intervention.<sup>144</sup>

**Key Takeaways.** This case demonstrates the influence exercised by the Panel through the Bank President. While such high-level involvement can be effective, the decision to use it requires careful deliberation, as it can only be used sparingly and in severe circumstances.<sup>145</sup>

This case bears out the Panel’s lack of direct influence or ability to offer protection once a Requester faces threats or acts of alleged reprisals—including arbitrary detention and torture. It also raises the question of how a Bank escalation process can be employed most effectively.

In exceptional circumstances, the influence and role of third parties—including the OHCHR and the UN Special Procedures of the Human Rights Council—might ensure the safety of individuals facing retaliation. In other instances, the Inter-American Commission on Human Rights and the African Commission on Human and Peoples’ Rights can ask national authorities to adopt certain precautionary measures. Despite their inherent limits, such requests remain important tools. They inform the public, alert authorities, and put them on notice to protect the safety of individuals. Specialized civil society organizations also report on, support, advocate for, and may provide protection to HRDs who face reprisals.

Requesters often raise project-related decisions deemed unjust, or that violate people’s rights—by taking land or forcing resettlement, for example, where there has been failure to recognize customs of an indigenous population. In these situations, the Requesters’ intent is to correct real or perceived wrongdoing. A key objective, therefore, is to keep the complaint or concern from escalating to where it is viewed as a threat by the authorities, those contracted to build a project, or even by certain members of their own communities.

As mentioned above, in many of its cases the Panel found that complaints reached a higher pitch when GRMs were neither considered nor used by a project. Or when a consultation process failed to hear and weigh fully the views of affected groups and local NGOs in project design and implementation, particularly in the preparation of safeguard documents.

For example, in 2010 and 2011 the Panel received two Requests from Kazakhstan regarding the same project.<sup>146</sup> The first set of Requesters asked for confidentiality, but the second did not. During its fieldwork for the first complaint, the Panel met with government officials and inquired about civil society’s inclusion in project activities and the fear of reprisal shared with the Panel by the Requesters. By the time the Panel received the second complaint, a forum for dialogue among the Requesters, the project, and government authorities had been established. The Panel attributes this positive development to its earlier dialogue with the Government and the creation of a safe space for affected people to express their concerns. All stakeholders in this case—the borrower, the Bank, civil society, and the communities—were willing to engage further on the areas of concern. The improvement between the first and the second complaints is an intangible benefit of the Panel process.

Creating a safe space for stakeholders to participate, voice concerns, and debate differences often serves as a starting point for prevention. When safe space diminishes or vanishes altogether, issues can escalate and cause friction—within communities, between communities and authorities, or with those who stand to benefit from the project. This friction is often the cause of retaliatory measures. Dialogue—direct or indirect—between the parties is essential for views to be well understood, even if it does not ultimately yield agreement. This often helps dispel concerns of intimidation or reprisal.





# 6 INSIGHTS

## I. INCREASING INCIDENTS AND REPORTS OF INTIMIDATION AND REPRISALS

**T**he continuing, upward trend of reported and alleged attacks, acts of intimidation, and reprisals against opponents of actual or potential project impact has led the Panel to develop incremental steps to assess risk, prevent the escalation of tensions, and protect Requesters against reprisals.

This advisory report is not intended to provide an exhaustive range of solutions. Rather, it aims to bring together a body of work with the objective of creating incremental progress towards establishing a comprehensive system that responds to the increasing trend of reports of reprisals in development projects, and to encourage further improvements. The Panel views this report as a building block on which others may build as the thinking and practice in this area evolves.

By aggregating quantitative data and qualitative information through its various cases, the Panel hopes to contribute to the overall knowledge of this subject and increase awareness of reprisals among potential victims and HRDs, decisionmakers in development institutions, and development practitioners working in the field.

## II. CO-DEPENDENCY BETWEEN ZERO TOLERANCE AND SAFE SPACES

Individuals and groups complain to IAMS as a last resort. Hence, Requests often reach the Panel after a breakdown of trust, heightened tensions, simmering conflict, or worse. Fostering an open dialogue and a safe space to discuss issues with stakeholders is one of the best ways to prevent an escalation which might further expose Requesters to risks of reprisals.

“The responsibility of businesses to respect human rights not only entails a negative duty to refrain from violating the rights of others, but also a positive obligation to support a safe and enabling environment for human rights defenders in the countries in which they are operating. Discharging this duty requires consultation with defenders in order to understand the issues at stake and the shortcomings that impede their work.”

—Michel Forst, former UN Special Rapporteur on the situation of human rights defenders<sup>147</sup>



Once reprisals commence, protecting Requesters can be complicated and difficult. Therefore, creating an environment where communities can safely raise and resolve their concerns is a key preventive measure. Continuous stakeholder engagement throughout the project cycle is also key to prevention.

Zero tolerance is a commitment. However, “zero” reprisals against affected communities is only attainable if all actors fulfill their duties and obligations towards this commitment, including by enforcing national laws against acts of intimidation aimed at Requesters. It should be noted that at a national level there are varied approaches against reprisals. The Vision for Sustainable Development in the World Bank’s Environmental and Social Framework sets out the Bank’s objectives on this issue in its relationship with client countries. The Bank commits that its *“activities support the realization of human rights expressed in the Universal Declaration of Human Rights. Through the projects it finances, and in a manner consistent with its Articles of Agreement, the World Bank seeks to avoid adverse impacts and will continue to support its member countries as they strive to progressively achieve their human rights commitments.”*<sup>148</sup> The Bank adds that it *“uses its convening ability, financial instruments, and intellectual resources to embed this commitment to environmental and social sustainability across all its activities.”*<sup>149</sup>

### III. INTIMIDATION AND REPRISALS: A SIGNIFICANT DETERRENT TO ACCESSING JUSTICE AND ACCOUNTABILITY

As this report observes, analysis of international publications and the Panel’s data reveals that, in almost every region in the world, reprisals are on the rise. CSOs report that during the last year<sup>150</sup> dozens of pieces of legislation further narrowing civil society space were passed by lawmakers around the world, often attributing the need for these legal constraints to the COVID-19 pandemic.<sup>151</sup> Front Line Defenders, in its 2020 Annual Report, observes that arrest and detention remained the most commonly reported tactic used by states to undermine or stop the work of HRDs.<sup>152</sup>

Reprisals have the effect of undermining the process of justice and weakening accountability, and can become a huge deterrent to those wanting to raise a complaint. Submitting a Request for Inspection to the Panel takes enormous courage. Even when confidentiality is requested, the Requesters, their families, and those closely connected to them risk acts of reprisal by state and non-state actors. Publicly questioning the credibility of the Requesters or attempting to defame them can serve to silence the voices of people wanting to raise concerns about the development projects intended to help them. Such acts defeat the very purpose for which the Executive Directors of the World Bank created the Inspection Panel.

### IV. CONTEXT-SPECIFIC APPROACH

The cases elaborated in this report show how every incident is framed by its particular context and why, therefore, no “one-size-fits-all” approach is appropriate or possible. In some cases, the World Bank President’s involvement leads to results, in others a high-level intervention may be counterproductive and exacerbate matters. The response in each instance must weigh contextual factors such as intimidation trends, the source of intimidation, national context, project footprint and life, the Bank’s influence, etc. This information is not always available and, therefore, designing an approach requires the involvement of Requesters. This could include connecting Requesters with specialized organizations.

### V. LIMITATIONS AND CHALLENGES IN RESPONDING TO INTIMIDATION AND REPRISALS

Raising complaints to—and seeking intervention by—IAMs carries an inherent risk of reprisals. While both the Panel and Bank have publicly committed to zero tolerance of any form of reprisal, their ability to act and directly intervene in such cases is limited to their projects and general influence with a client country’s authorities. Once reprisal occurs and the Panel alerts the Bank, a successful outcome depends on how the Bank exercises its influence to emphasize its zero-tolerance position. The Bank, in turn, relies on the commitment of the project implementing agency and national and regional authorities to address the risks. Bank influence is greatest when the sources of reprisals are known and can be targeted precisely. As noted above, the Bank cannot intervene between a citizen and his or her government agencies, or question government actions towards its citizens outside the agreed arrangements with the Bank.

The situation becomes increasingly complicated when those who submit Requests or are otherwise involved in the Panel process are already advocating for human rights in their countries and may therefore face risks for work unrelated to their contact with the Panel. In such cases, the causes for reprisals overlap and can become easily blurred between these two objectives. In some cases, authorities acted against such individuals once the Panel’s work was completed, citing previous or other incidents unconnected to the Panel or the Bank. In other cases, the Panel and Bank ensured protection during a project’s duration but not beyond it.

In this regard, protecting Requesters and others associated with them remains a challenge and must be a shared responsibility of the financiers, donors, borrowers, and implementing agencies.

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