

**Statement by Thomas Blanton**  
**(Director, National Security Archive, George Washington University;**  
**Contributor, *ifitransparencyresource.org*; Editor, *freedominfo.org*)**

**To The U.S. House of Representatives**  
**Committee on Financial Services**

**Hearing: “The World Bank’s Disclosure Policy Review and the Role of Democratic  
Participatory Processes in Achieving Successful Development Outcomes”**  
**September 10, 2009**

Mr. Chairman, thank you very much for the opportunity to testify today about openness at the World Bank. I am honored to serve on this distinguished panel of witnesses. I applaud this Committee’s focus because Congressional pressure has been a prime factor in every serious transparency reform that the Bank has undertaken over the years, and I will come back to that point, since my purpose here is to provide some of the historical context for our discussions today, and my prepared statement contains far more of that history than you will want to consume at this hearing or any other! But at the outset, let me say how an archive of national security documentation has come to the issue of openness in the international financial institutions.

Journalists and historians founded the National Security Archive almost 25 years ago to follow up Freedom of Information Act requests – which often took years for the government to answer – and serve as an institutional memory for what was released. Since then, we have become the most active and successful FOIA requester among media and non-profit groups, and our documents have made headlines all over the world. For example, the front page of the *Washington Post* this summer when we obtained the transcripts of Saddam Hussein’s interviews with the FBI after his capture in Iraq. We are

a kind of snowplow in the secrecy blizzard; we can't uncover everything, but we take on the tough secrets and at least keep the roads open.

Almost from the beginning of the Archive, folks from foreign countries would show up to see what the American documents said about them. I still remember the distinguished Mexican analyst Sergio Aguayo remarking on some front-page headlines we made in Mexico, "why are we finding out what Mexican presidents said and did from American documents? We have the right to know ourselves from our own records!" Reactions like this helped spark the cascade of campaigns around the world for national freedom of information laws, and many of those campaigners asked us for our help, in drafting and implementing new laws in countries ranging from Japan to India to Mexico to Chile. Next week, in fact, I will be in the Republic of Georgia working with our partners there on monitoring FOI laws in Armenia, Azerbaijan, Georgia and Russia.

But those experiences all over the world led us right to the multilateral institutions like the World Bank. If you are campaigning for public bodies to be more open, more accountable, more participatory, then the World Bank comes right up on the radar screen. So when we at the Archive helped started the Web-based virtual network of freedom of information advocates, at [www.freedominfo.org](http://www.freedominfo.org), our first launch included a major feature focused on the international financial and trade institutions, called IFTIWatch, edited and reported by the superb journalist Toby McIntosh. Yesterday's edition of IFTIWatch broke the news that the World Bank is considering a new breakthrough in transparency, perhaps in time for the new draft of the proposal disclosure policy this fall – staff recommendations would be disclosed to the public at the same time they are sent to the decision-making board. This is one of the several recommendations made by the Global Transparency Initiative, in which the Archive and our freedominfo.org network participate, and about which you have also heard today from Dr. Bissell. I endorse that analysis and those recommendations, made by witnesses far more expert than I am.

Here I simply want to point to some of the lessons learned from the decades of struggle for greater openness. I carried out this research, I should say, as part of a task

force originally convened by Professor Stiglitz and ultimately published in the 2007 book *The Right to Know*, edited by Ann Florini.<sup>1</sup> My prepared statement has the details, including extensive quotations from inside the Bank about its own tangled process of reform. The bottom line is that real reform depends on four factors coming together: Pressure from outside critics, pressure from this Congress, rhetorical commitments by the Bank, and insider reformers who internalize the need for transparency. The Bank's own internal history, for example, explicitly cites the outside criticism from environmental NGOs as the main prompt for the governance reforms of the 1990s towards more transparency and accountability.

Perhaps most telling for our proceedings today, I should point out that the Bank finally installed the Inspection Panel in 1993 and issued its first information disclosure policy (inadequate though it was) only after the U.S. Congress threatened to hold up refunding of the Bank's capital accounts. Even that inadequate disclosure policy was helpful, just like so many other often-purely-rhetorical commitments by Bank officials to greater participation and accountability, because the rhetoric empowered challenges to power and provided handles for reformers both outside and inside the Bank. Finally, the Bank has now become a significant advocate of national-level freedom of information laws and greater transparency through the development aid process, because its own research shows better development outcomes and less corruption when stakeholders know what's going on. So I am left with the old joke asking how many psychiatrists does it take to change a lightbulb – only one, but the lightbulb has to really want to change. Thank you very much for your attention, I welcome your questions, and my prepared statement follows.

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<sup>1</sup> See Thomas Blanton, "The Struggle for Openness in the International Financial Institutions," Chapter 8 in Ann Florini, ed., *The Right to Know: Transparency for an Open World* (New York: Columbia University Press, 2007), pp. 243-278.

## The History of a Legitimacy Crisis

One of the greatest challenges to democratic governance in the globalized world lies in the growing gap – the “democratic deficit” – between the power of the international institutions to affect human lives throughout the planet, and the power of the people so affected to hold those institutions accountable, much less participate in the institutions’ decisions.<sup>2</sup> The growth of the international institutions, especially since the end of the Cold War, is particularly dramatic. The World Bank has more than doubled its annual commitments since 1979 and now lends in more than 100 countries, including the previously off-limits territory of the former Soviet Union. The multilateral development banks have emulated the World Bank in the growth of their own regional portfolios. The World Trade Organization replaced the earlier General Agreement on Tariffs and Trade in 1995 with a more restrictive set of rules and binding dispute settlement procedures. The end of the fixed exchange rate system in the 1970s and the debt crisis of the 1980s changed the International Monetary Fund from the world’s exchange rate fixer into a key provider of development assistance as well as ultimate arbiter for many countries of whether international capital will be available at all. After 1991, the North Atlantic Treaty Organization expanded to take in the former Warsaw Pact countries of East and Central Europe, and now has troops on the ground in Afghanistan. But the governance structures of these international institutions have not changed.

Discussion of the resulting “democratic deficit” is no longer limited to the protest movement that gave the place names “Seattle” and “Genoa” significance both as generic anti-globalization reaction and as a more sophisticated challenge to the legitimacy of international institutions.<sup>3</sup> The policy and scholarly literature exploded in recent years with attempts to analyze the problem, but at the root of the issue is the genealogy of the IFIs and IGOs. The former descend directly from central banks, which even in the most

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<sup>2</sup> An earlier version of this testimony appeared as Thomas Blanton, “The Struggle for Openness in the International Financial Institutions,” Chapter 8 in Ann Florini, ed., *The Right to Know: Transparency for an Open World* (New York: Columbia University Press, 2007), pp. 243-278.

<sup>3</sup> See Joseph S. Nye, Jr., “Globalization’s Democratic Deficit: How to Make International Institutions More Accountable,” *Foreign Affairs* (Vol. 80, No. 4, July/August 2001), pp. 2-6; for a more stringent critique, see Graham Saul, “Transparency and Accountability in International Financial Institutions,” in Richard Calland and Alison Tilley, eds., *The Right to Know, The Right to Live: Access to Information and Socio-Economic Justice* (Capetown, South Africa: Open Democracy Advice Centre, 2002), pp. 126-137.

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

The fact of public attention to the problem of secrecy in international institutions should serve as the threshold signal of an opportunity for change. One cannot underestimate the ameliorative effect of embarrassment, or as the analyst Ann Florini termed this effect, “regulation by revelation.”<sup>4</sup> Such exposure has compelled in particular the IFIs over the past 20 years gradually to expand the documentation that is available to the public and to improve their communication with stakeholders and other target groups. In fact, the public relations and publications functions of international institutions may well be the fastest-growing such bureaucracies in terms of budget and employee positions. But the new transparency more resembles a sophisticated publications scheme than it does an actual “revolution” in accountability. Even so, there are at least four other causes for optimism that more fundamental change may well be possible – if civil society seizes the opportunity, and the institutions themselves internalize the need for change.

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

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<sup>4</sup> See Ann Florini, *The Coming Democracy: New Rules for Running a New World* (Washington, D.C.: Island Press, 2003), p. 34.

[and] to broader political and social concerns” – one sees the makings of an emerging elite consensus on the problem and the potential role of greater openness in addressing the “democratic deficit.”<sup>5</sup> In this formulation, openness becomes the next best thing to democratic governance, and when the latter is unlikely because those in control are unlikely to give up that control, then transparency will serve as the most important alternative control mechanism, and the possible threshold for addressing governance.<sup>6</sup>

Second, as a result of outside pressure and the emerging conventional wisdom, international institutions themselves are paying at least lip service to the need for greater openness, and in some cases, have actually achieved significant progress towards more transparency. Each of the multilateral development banks, for example, has promulgated formal policies on access to their internal documentation, and a wide variety of records that were previously secret are now routinely provided to the public – although host government veto power and ingrained bureaucratic self-preservation instincts still prevent the most controversial information from such routine publication. Starting in 1999, the almost simultaneous emergence of the anti-market critique featured in the Seattle and Genoa demonstrations, among others, with the pro-market critique offered by the Republican-dominated U.S. Congress and its Meltzer Commission about the banks and the IMF, pointed towards greater transparency as one of the few strategies that addressed both wings of the debate.<sup>7</sup> The real importance of these developments, however, was that the pro-openness rhetoric from IFI and IGO leaders, together with the existence of formal disclosure policies, provided extensive leverage points for activists

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<sup>5</sup> See Joseph S. Nye, Jr., op.cit.; Chris Patten, “Jaw-jaw, not war-war: Military success in Afghanistan has encouraged the US to ignore European doubts about confronting the ‘axis of evil,’” *Financial Times* (London), 15 February 2002, p. 16; Joseph E. Stiglitz, *Globalization and Its Discontents* (New York: W.W. Norton & Co., 2002), p. 227; for additional evidence of the growing consensus, see Graham Saul, op. cit.

<sup>6</sup> Joseph E. Stiglitz, “Democratizing the International Monetary Fund and the World Bank: Governance and Accountability,” *Governance*, Vol. 16, No. 1, January 2003, p. 133.

<sup>7</sup> A point made vividly by Marco Verweij and Timothy E. Josling in their introduction to the special issue of *Governance* (Vol. 16, No. 1, January 2003) titled “Deliberately Democratizing Multilateral Organization,” at p. 3.

who are willing to test specific instances of secrecy and to pursue an “inside-outside” strategy of working with internal reformers and external watchdogs.<sup>8</sup>

Third, civil society organizations around the world have seized on openness as a threshold goal in struggles over the whole panoply of social issues, ranging from the environment to AIDS to poverty reduction to corruption. In India, for example, the Mazdoor Kisan Shakti Sangathan (MKSS) grassroots movement based in Rajasthan began in 1990 with a focus on securing the legally-required minimum wages for poor farmers and rural laborers, but soon realized that access to official records was key not only to that goal, but also to preventing corruption and enforcing a connection between government expenditure and human need.<sup>9</sup> Ironically, this tactical choice by NGOs has coincided at least rhetorically with the rise among elites – not least the professional staffs of the international institutions themselves – of the so-called “Washington consensus” for market-driven economic development, the fundamental assumptions of which require highly-distributed information to make markets work – thus adding efficiency arguments to the moral and political critiques already employed by activists.

Fourth, the past two decades have witnessed an extraordinary international movement for freedom of information, including successful campaigns for national FOI laws in more than 70 countries. While there is enormous variation in the effectiveness of these laws, and major difficulties remain in the implementation of such rights in transitional democracies with limited rule-of-law, one hallmark of the dozens of national campaigns has been their attentiveness to other national models and their outreach for international connections and support. In the process, international FOI campaigners have identified the problem of IFI and IGO secrecy as a major priority for future work, and have begun reaching out beyond the traditional FOI community to NGOs and civil society activists experienced in the various IFI accountability efforts. Over time, these new networks are likely to develop even more dramatic reform proposals for openness

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<sup>8</sup> For the most extensive current reporting on disclosure policies, as well as specific links to actual texts at each of the IFIs, see [www.freedominfo.org/ifti.htm](http://www.freedominfo.org/ifti.htm) and the IFI Transparency Resource (launched in February 2005) at [www.ifitransparencyresource.org](http://www.ifitransparencyresource.org) and the Bank Information Center web site [www.bicusa.org](http://www.bicusa.org).

<sup>9</sup> See the case study of the MKSS right-to-information campaign, including essays by Aruna Roy, Nikhil Dey, and Vivek Ramkumar, at [www.freedominfo.org/case/mkss/mkss.htm](http://www.freedominfo.org/case/mkss/mkss.htm).

and accountability in the international institutions, ranging from potential international treaties as an overarching framework based on human rights concepts, to notice-and-comment requirements for projects and policy changes.<sup>10</sup>

This essay provides a brief and admittedly selective history of the struggle for openness in the international institutions, a discussion of the founding secrecy norms and their erosion over time, summary descriptions of a few of the more important battles and campaigns in that struggle, an analysis of transparency policies and institutional structures within the international institutions, an overview of current issues and debates, and an outline of the two most likely areas for future transparency developments – the growing interest and role of parliamentarians, and the potential for restraining the power of international organizations through the development of global administrative procedures such as notice-and-comment. One major limitation of this discussion derives from the limitations of the available scholarly and popular literature on transparency in the international institutions, that is, the preponderance of focus on the World Bank, rather than on the regional development banks, the IMF, the WTO, NATO or others. While the latter do feature in a number of significant studies, and this paper will draw on that material for illustrative purposes, it is the World Bank that has occupied the central place in the protest movements of the past 30 years as well as in the international openness reforms of the past decade or more.

### **The Roots of Secrecy in International Institutions**

Diplomats, central bankers, generals, and corporate lawyers founded the international institutions that exercise power in the globalized world today. It is no wonder that the habits of confidentiality ingrained in these men (and they were almost all men) became the ethos of the institutions they started. Government-to-government discussions in those days were supposed to stay secret for 50 years or more after they took place; freedom of information law existed only in Sweden and in the former

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<sup>10</sup> For description and analysis of the international freedom of information movement, see Thomas Blanton, “The World’s Right to Know,” *Foreign Policy* (July/August 2002), pp. 50-58, and in an expanded version, “The Openness Revolution,” *Development Dialogue* (2002/1), pp. 7-21.



Swedish province of Finland (for reasons peculiar to bourgeois-versus-noble competition in the late 1700s); and central bankers inspired literature like *The Wizard of Oz*. Over the years since World War II and its immediate aftermath – which was the incubator period for the global order – those founding conventions of confidentiality have eroded in the face of scandal, political challenge, and efficiency arguments.

The first to lose their luster were the diplomatic norms, while central banker imperatives took longer, and both still persist in varying degrees of force. Diplomatic theorist Hans J. Morgenthau wrote in 1954 about the “vice of publicity” in diplomacy, and multiple other commentators have testified to the “ethos of confidentiality” in intergovernmental affairs.<sup>11</sup> The U.S. Supreme Court commented in 1936 that “The nature of transactions with foreign nations, moreover, requires caution and unity of design, and their success frequently depends on secrecy and dispatch.”<sup>12</sup> Even in Justice Stewart’s concurring opinion in the Supreme Court’s 1971 decision not to enjoin publication of the leaked Pentagon Papers, he wrote, “[I]t is elementary that the successful conduct of international diplomacy... require[s] both confidentiality and secrecy. Other nations can hardly deal with this Nation in an atmosphere of mutual trust unless they can be assured that their confidences will be kept.”<sup>13</sup>

But the Pentagon Papers represented a turning point for diplomatic secrecy. Secretary of State William Rogers had entered an affidavit saying that foreign diplomats had specifically told him relations would be damaged by the disclosures in the Papers, but then the government overreached. At a key appeals hearing, the government presented a sealed affidavit enclosed in three sealed manila envelopes, one inside the others, all three within a double-locked briefcase; the affidavit explained how certain cable intercepts in the Papers showed that the U.S. had broken the North Vietnamese codes. One of the temporarily enjoined journalists sitting with the *Washington Post* legal team, reporter George Wilson, “stunned everyone by pulling out of his back pocket a

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<sup>11</sup> See the discussion in Alasdair Roberts, “A Partial Revolution: The Diplomatic Ethos and Transparency in Intergovernmental Organizations,” *Public Administration Review*, July/August 2004, Vol. 64, No. 4, pp. 411-412.

<sup>12</sup> *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304 (1936).

<sup>13</sup> *New York Times Co. v. United States*, 403 U.S. at 728 (1971) (Stewart, J., concurring).

verbatim record of the intercept, in an unclassified transcript of Senate Foreign Relations Committee hearings.”<sup>14</sup> Years later, the Solicitor General who argued for the government in the Pentagon Papers case concluded that the arguments for diplomatic secrecy were vastly overstated: “I have never seen any trace of a threat to the national security from the publication. I have never even seen it suggested that there was such an actual threat.”<sup>15</sup>

The U.S. executive branch continues to assert diplomatic secrecy, and to take a maximalist position, but with mixed success. For example, in 1999, the Department of State opposed disclosure of a British consul’s letter related to an extradition case, arguing that “[i]t is a longstanding custom and accepted practice in international relations to treat as confidential and not subject to public disclosure information and documents exchanged between governments and their officials. . . . Diplomatic confidentiality obtains . . . even with respect to information that may appear to be innocuous. . . .”<sup>16</sup> The letter involved was so innocuous, however, that the consul had previously disclosed its contents to the plaintiff, unbeknownst to all involved, and the government, to its consternation, had to moot the case. As the *Weatherhead* case suggests, there co-exists uneasily both the proof of persistence of the secrecy norm (most prominently in the imposition by NATO of its information security policies onto new NATO members, helping state secrecy trump new freedom of information laws)<sup>17</sup> as well as previously unthinkable expressions of the norm’s erosion (the CIA’s National Intelligence Council carried out its recent 15-year threat assessments in a process of unclassified workshops and a series of unclassified final reports posted on the Web).<sup>18</sup>

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<sup>14</sup> Ben Bradlee, *A Good Life* (New York: Simon and Schuster, 1995), p. 320.

<sup>15</sup> Erwin Griswold, “Secrets Not Worth Keeping,” *The Washington Post*, 15 February 1989, p. A25.

<sup>16</sup> Patrick Kennedy, Assistant Secretary for Administration, U.S. Department of State, Declaration in *U.S. v. Weatherhead* (Cited in 9<sup>th</sup> Circuit Opinion 6 October 1998, at <http://www.fas.org/sgp/foia/weatherapp.html>)

<sup>17</sup> Alasdair Roberts, “Entangling Alliances: NATO’s Security of Information Policy and the Entrenchment of State Secrecy,” *Cornell International Law Journal*, Vol. 36, No. 2, Spring 2003, pp. 329-360.

<sup>18</sup> See [http://www.cia.gov/nic/NIC\\_2020\\_project.html](http://www.cia.gov/nic/NIC_2020_project.html) (accessed 29 December 2004).

Similar erosion is underway for secrecy arising from the norm of central bank confidentiality. Perhaps the classic expression of the central banker attitude came from U.S. Federal Reserve Board chairman Arthur Burns Jr. in a 1976 speech reacting to the U.S. Freedom of Information Act and what he called a decade of “profound changes in the attitudes of Congress, the courts, and the public generally towards ‘secrecy’ in government.” Under the title “The Proper Limits of Openness in Government,” Burns said “it has been my purpose to question the premise that disclosure is a desirable end in and of itself. I particularly question the premise that disclosure is the cure for bad government.” He cited the tradition of “elaborate safeguards” in bank examination “to protect the privacy of bank customers and to preserve public confidence in individual banks and the banking system as a whole.” He noted with approval that “Very few of the world’s central banks regularly inform their national legislature of their plans for the future course of monetary policy...” and argued that “premature disclosure” of Fed strategy would produce “greater short-run volatility in interest rates” and “exaggerated shifts in market expectations,” thus making “speculators” the “chief beneficiaries of immediate disclosure.” Most troubling to Burns was “the prospect that Board deliberations prior to decision may be opened to public scrutiny...” since that would convert reasoned debate into “theater.”<sup>19</sup>

Each of these arguments has been challenged and many refuted in the years since Burns made his objections. The U.S. Congress for example decided that bank examination secrecy was less effective than deposit insurance in preventing runs on banks, and passed laws forcing transparency on bank practices such as “redlining” (discriminatory mortgage lending), money-laundering, and savings-and-loan accounting. The U.S. courts have reduced secrecy over bank customer data and taxpayer information by ordering disclosure in aggregate formats, stripped of personal identifiers, but allowing researchers to assess bank examiner and even IRS audit rates by income levels, geographic regions, job categories and industries, and thus hold regulatory bodies far

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<sup>19</sup> Arthur F. Burns, “The Proper Limits of Openness in Government,” Address to the 1976 International Monetary Conference, San Francisco, California, 19 June 1976, Arthur F. Burns Papers, Box E31, Gerald R. Ford Library, Ann Arbor, Michigan.

more accountable.<sup>20</sup> The most prominent claim by Burns – that releasing more information about deliberations of the Federal Reserve would benefit only the speculators, the insiders, and thus contribute to volatility in the markets – has largely been demolished today by the school of information economics, with studies showing more information from regulatory bodies actually stabilizes the markets and creates more of a level playing field, and that information asymmetries are the real problem underlying bank runs, capital flights, and crashes.<sup>21</sup> As the Nobel Prize-winning economist Joseph Stiglitz has commented on the International Monetary Fund, “The IMF holds that transparency could undermine its effectiveness, a view it shares with the central bankers who play such a large role in its governance. With few exceptions, most of them are committed to the proposition that public discussions of monetary policy would not contribute to economic stability and believe that even public disclosure of the IMF’s deliberations would be counterproductive. Remarkably, there is little empirical evidence in support of these strongly held views. On the contrary, few untoward consequences have resulted from the Bank of England’s movement towards improved transparency and disclosure.”<sup>22</sup>

Professor Stiglitz may be surprised to find that leaders of the IMF now agree with him on this point. Thomas Dawson, the IMF’s director of external relations, commented in 2003 that “information once guarded as closely as state secrets is now routinely published. And fears in some quarters that the release of this information would shake the pillars of modern civilization seem to have been unfounded. Financial markets are happy getting a steady stream of information from us and from our member governments. And they like it better than the old system when a sudden deluge of information which

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<sup>20</sup> Perhaps the leading example of recently won access to previously confidential data on matters like tax audits is the Transactional Records Access Clearinghouse at Syracuse University, which provides extensive databases and analyses of government law enforcement activities, much of it obtained through FOIA requests. See <http://trac.syr.edu/aboutTRACgeneral.html>.

<sup>21</sup> See, for example, Joseph E. Stiglitz and S.J. Grossman, “On the Impossibility of Informationally Efficient Markets,” *American Economic Review*, Vol. 70 (3), 1980, pp. 393-408; and Joseph E. Stiglitz, “On Liberty, the Right to Know, and Public Discourse: The Role of Transparency in Public Life,” Oxford Amnesty Lecture, 27 January 1999, p. 20.

<sup>22</sup> Joseph E. Stiglitz, “Democratizing the International Monetary Fund and the World Bank: Governance and Accountability,” *Governance*, Vol. 16, No. 1, January 2003, p. 115.

had been bottled up would come out and destabilize markets and countries.” Dawson described an IMF colleague who had come from a career in the British Treasury to work on the IMF’s Code of Fiscal Transparency, and joked that he “spent the first 25 years of his career assisting ministers in hiding what was going on and the next five years trying to unveil what was actually happening.”<sup>23</sup>

### **The Checkered History of Transparency at the World Bank**

The World Bank’s own authorized history of its first half-century mentions that direct contact with the people affected by Bank decisions “seemed to contradict two of the Bank’s constitutional principles: that it would deal with citizens and legislators of member governments through the designated representatives of those governments on the Board of the Bank; and that it would maintain a fiduciary relationship with member governments, a relationship of confidentiality in which the responsibility for releasing information pertaining to a borrower lay with the borrowing government.”<sup>24</sup> A leader of the Philippines-based Freedom from Debt Coalition stated the problem more directly and colorfully: “When we complain to the World Bank and the IMF, they tell us, ‘So sorry, we don’t talk to people. We only talk to governments. We only talk to your president. We only talk to your central bank governor. We only talk to your minister of finance.’ This is a joint production of the international finance community with the cooperation of local elites and leaders in our own country. The majority of the people are shut out of the negotiations.”<sup>25</sup>

But this opacity, insularity, and secrecy would change – not completely by any means, but markedly. Struggles over 40 years and in countries ranging from Brazil to

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<sup>23</sup> Thomas C. Dawson, “Transparency and the IMF: Toward Second Generation Reforms,” Speech to Nordic and Baltic Monetary and Financial Committee, Tallinn, 17 March 2003, at [www.imf.org/external/np/speeches/2003/031703.htm](http://www.imf.org/external/np/speeches/2003/031703.htm) (accessed 28 June 2004).

<sup>24</sup> Robert Wade, “Greening the Bank: The Struggle over the Environment, 1970-1995,” in Devesh Kapur, John P. Lewis, Richard Webb, eds., *The World Bank: Its First Half Century, Volume 2: Perspectives* (Washington D.C.: Brookings Institution Press, 1997), p. 657.

<sup>25</sup> Leonor Briones quoted in Kevin Danaher, ed., *50 Years Is Enough: The Case Against the World Bank and the International Monetary Fund* (Boston, MA: South End Press, 1994), p. 67.

India forced the change, and the struggle continues. Leadership in the change came from non-governmental organizations, the environmental movement, growing associations of indigenous peoples, and national parliaments, especially the U.S. Congress. The World Bank became the first international institution targeted and the first to change. Activists targeted the Bank for many reasons: The Bank had global impact and tangible projects, received contributions from the U.S. government over which taxpayers and the Congress had the right of oversight, was handily based in Washington D.C. within walking distance of many U.S. and international NGO offices, was not a foreign government that could exercise nationalist appeals in its defense, and already had at least rhetorical commitments to the environment and to ameliorating the conditions of indigenous peoples. The choice of the Bank was not because the Bank's practices were worse than the other development banks or institutions, but because there were more handles with which to grip the Bank.<sup>26</sup>

But the other institutions soon followed: After the financial crises in Mexico (1994), Asia (1997), and Russia (1998), IMF delegations found themselves surrounded by housewives beating tin cups and economists bearing hemlock. The IMF's Thomas Dawson summed up the lessons learned in a 2003 speech: "It was widely accepted that in reporting their financial positions some of the crisis countries had been, shall we say, 'economical with the truth' .... Not only were countries under pressure to come clean, but the IMF itself came in under unprecedented pressure to reveal its policy advice to countries, that is, to be less secretive."<sup>27</sup> Soon the IMF moved almost all of its documents onto the Web and began reaching out to parliamentarians and NGOs, although its decisionmaking remained extremely problematic from an accountability perspective.<sup>28</sup>

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<sup>26</sup> From the activists' point of view, see the excellent collection by Jonathan A. Fox and L. David Brown, eds., *The Struggle for Accountability: The World Bank, NGOs, and Grassroots Movements* (Cambridge, MA: The MIT Press, 1998); from the independent scholar contributing to the Bank's authorized history, see Robert Wade, "Greening the Bank," especially pp. 658-659.

<sup>27</sup> Thomas C. Dawson, op. cit.

<sup>28</sup> Andrew Eggers, Ann Florini, Ngaire Woods, "Chapter One: Accountability, Parliaments and the IMF Board," in Barry Carin and Angela Wood, eds., *Enhancing Accountability in the International Monetary Fund*, Centre for Global Studies, University of Victoria (Canada), November 12, 2003 DRAFT, pp. 8-24.

In 1999, the WTO ministerial meeting in Seattle became the scene of violent and non-violent street protest; so subsequent location choices for WTO meetings favored islands separated from demonstrators by causeways, barricades and police. By 2002 the WTO was issuing press releases about its quicker release of restricted documents, sponsoring regular NGO seminars, and spending core budget funds to include lower-income countries in its Geneva proceedings.<sup>29</sup> In 2004, the former chairman of the WTO's Appellate Body called for opening "the proceedings of the panels and the oral hearings of the Appellate Body, both to press coverage and to overall public observation" and "the same for meetings of the General Council, the Dispute Settlement Body and all of the other major councils of the WTO" because otherwise "it's unlikely that members of the WTO will ever secure the public support needed to maximize the many gains to be made from trade through a rule-based world trading system."<sup>30</sup> The WTO has not yet adopted these suggestions, nor would they amount to a transparency revolution, only a "partial revolution" in Alasdair Roberts' phrase; but already the transparency changes have opened serious discussion of accountability and governance questions, and nowhere more so than at the World Bank.

For the World Bank openness struggle, the start date that activists point to is 1966, when the General Assembly of the United Nations passed resolutions condemning the apartheid regime in South Africa and the continuing colonial subjugation of Angola and Mozambique by Portugal, as violations of the U.N. charter. Despite its U.N. affiliation, the Bank insisted that Article IV, Section 10 of its own Charter, prohibiting interference in the political affairs of its members, required it to disregard the resolutions. The Bank proceeded with a \$10 million loan to Portugal and \$20 million to South Africa, even after a personal plea from U.N. Secretary General U Thant to the Bank's president, George Woods.<sup>31</sup> This was hardly the first, but certainly the most flagrant, of World Bank actions that raised the question of accountability. If the U.N. charter itself did not

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<sup>29</sup> World Trade Organization, "WTO moves towards a more open organization," 16 May 2002, with Document WT/L/452 of 14 May 2002 attached.

<sup>30</sup> James Bacchus, "Open Up the WTO," *The Washington Post*, 20 February 2004, p. A25.

<sup>31</sup> Graham Saul, Bank Information Center, personal communication to author, 13 January 2004; Bruce Rich, "World Bank/IMF: 50 Years Is Enough," in Kevin Danaher, ed., *50 Years Is Enough*, p. 8.

apply, then the Bank had set itself up as an entity above national law but without international law. As activist David Hunter described it, because the Bank was insulated from any legal responsibilities to the people directly affected by its actions, it was therefore a “lawless institution.”<sup>32</sup>

The first effective resistance by affected peoples came in the Philippines, only two years into the martial law imposed by Ferdinand Marcos in 1972. The World Bank had made the Philippines a priority, lending \$2.6 billion for 61 projects between 1973 and 1981. In particular, the Chico River dam project in the Cordillera would have provided hydroelectric power in the wake of the oil crisis, but only by flooding nearly 3,000 hectares of rice terraces belonging to the indigenous Kalinga and Bontoc peoples. They only found out about the dam a year after project approval, when survey teams came to the valley. Protests escalated, from petitions to the government that were ignored, to a regional pact among indigenous leaders against working in the construction, to incursions by the New Peoples’ Army guerrilla forces, to direct protest at the IMF Manila conference in 1977, where Bank president Robert McNamara felt compelled to say that “no funding of projects would take place in the face of continued opposition from the people.” Ultimately, the Bank withdrew and the Philippine government postponed the dam indefinitely; “it was a silent retreat, but this did not detract from the fact that the Bontoc and Kalinga had accomplished something exceedingly rare in the Third World: the Bank’s withdrawal in the face of popular resistance.”<sup>33</sup> In partial response, the Bank developed its first policies on indigenous peoples, but it would be years before those policies explicitly mandated informed consent and self-determination as core principles.<sup>34</sup>

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<sup>32</sup> David Hunter quoted by Jonathan Fox, “Introduction: Framing the Inspection Panel,” in Dana Clark, Jonathan Fox, Kay Treakle, eds., *Demanding Accountability: Civil-Society Claims and the World Bank Inspection Panel* (Lanham, MD: Rowman & Littlefield, 2003), p. xiii.

<sup>33</sup> Walden Bello, David Kinley, Elaine Elinson, *Development Debacle: The World Bank in the Philippines* (San Francisco: Institute for Food and Development Policy/Philippine Solidarity Network, 1982), p. 57.

<sup>34</sup> Andrew Gray, “Development Policy, Development Protest: The World Bank, Indigenous Peoples, and NGOs,” in Jonathan A. Fox and L. David Brown, *The Struggle for Accountability* (1998), pp. 269-270, 287-288.



In retrospect, the Polonoroeste road-paving and forest colonization project in Brazil starting in 1982 may have been the “paradigm case” of atrocious World Bank projects, and of effective NGO opposition. Polonoroeste featured enormous environmental and social damage, and no consultation with indigenous peoples, while internal Bank warnings were ignored and government and extractive industry interests drove the process in Brazil. The project’s road-paving, paid for with \$457 million from the World Bank, doubled the population of the region in a decade, while deforestation pulped the rainforest. Of the development fostered by the Polonoroeste road-building, a professional forester wrote: “Visiting such areas it is hard to view without emotion the miles of devastated trees, of felled, broken and burned trunks, of branches, mud and bark crisscrossed with tractor trails – especially when one realizes that in most cases nothing of comparable value will grow again on the area. Such sights are reminiscent of photographs of Hiroshima, and Brazil and Indonesia might be regarded as waging the equivalent of thermonuclear war upon their own territories.”<sup>35</sup>

But there’s more than devastation to the Polonoroeste story. NGO protest, social networks of Brazilian and foreign anthropologists, and the first Washington-based international NGO campaign persuaded the U.S. Congress to intervene with hearings and an unprecedented meeting with the head of the World Bank. In March 1985, the Bank suspended the loans. “It was an extraordinary double precedent: for the first time, the Bank was forced to account to outside NGOs and a legislator from a member country for the environmental and social impacts of a lending program; also for the first time, a public international financial institution had halted disbursements on a loan for environmental reasons.”<sup>36</sup> Perhaps equally important for the future of openness struggles against the Bank and the IFIs, international activists forged close connections with the rubber tappers from Acre, Brazil, and their leader Francisco “Chico” Mendes, whose subsequent assassination in 1988 by the hired guns of irate landowners put the rainforest issue on the front page of *The New York Times*. The connection transformed both parties,

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<sup>35</sup> Nicholas Guppy, “Tropical Deforestation: A Global View,” *Foreign Affairs*, Vol. 62, No. 4 (Spring 1984), p. 943.

<sup>36</sup> Andrew Gray, *op.cit.*, p. 279.

placing the human dimension of environmental change at the heart of the argument, adding sustainability proposals like Mendes' "extractive reserves" to the development debate, giving the tappers new access to international leverage, giving the internationals new approaches to environmental debates that were grounded in social relations rather than technical expertise.<sup>37</sup>

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

Finally, the Bank appointed an independent review team (the Morse Commission), but then voted to continue the project despite the team's findings that resettlement was "not possible under prevailing circumstances," that environmental impacts had "not been properly considered or adequately addressed," and that "progress

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<sup>37</sup> Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics*, (Ithaca, NY: Cornell University Press, 1998), pp. 135-141.

will be impossible except as a result of unacceptable means,” that is, police force. The Bank’s approval of continuing the dam, according to Patrick Coady, the U.S. executive director, at the October 1992 board meeting, signaled “that no matter how egregious the situation, no matter how flawed the project, no matter how many policies have been violated, and no matter how clear the remedies prescribed, the Bank will go forward on its own terms.”<sup>38</sup> But Narmada catalyzed protests at the 1994 Madrid meetings, multiple Congressional inquiries, a highly successful NGO campaign working with the U.S. Congress to hold back funding replenishment for the World Bank Group, and ultimately, the Bank responded with the Inspection Panel and a new disclosure policy. For the oustees, there was much less success – the Indian government proceeded with the dam, which continues under construction today, with reservoir levels rising and resettlement a debacle – yet more proof that transparency is necessary but not sufficient for real change. As Indian right-to-know expert Shekhar Singh has commented, more Indians wanted the electric power from Narmada than wanted not to move their homes, and India is a democracy.<sup>39</sup> (One outstanding question is whether the initial Bank funding was essential to the start of the project, or whether, as the Bank likes to claim, the Indian government would have proceeded without the Bank).

An all-too-similar episode of international campaign pressure occurred with the Bio-Bio River dam controversy in Chile – it produced major institutional reform, but too little and too late for the affected people at the local level. The case focused attention for the first time on the lack of accountability in the rapidly growing private sector side of the World Bank’s operations, specifically the International Finance Corporation (IFC), while severely testing the nascent democratic processes in a country transitioning from the 17-year Pinochet dictatorship after 1990. The state-owned utility started planning for a series of dams on the Bio-Bio, a center of indigenous Mapuche/Pehuenche culture as well as a world-class whitewater rafting destination, in the mid-1980s; but neither the IFC (which approved the first dam in 1992, Pangué, which was finished in 1996) nor the

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<sup>38</sup> Lori Udall, “The World Bank and Public Accountability: Has Anything Changed?” in Jonathan A. Fox and L. David Brown, *The Struggle for Accountability* (1998), pp. 400-401.

<sup>39</sup> Shekhar Singh, personal communication to the author, 19 June 2004, Washington D.C.

power company carried out serious environmental or social impact studies. A burgeoning protest movement brought together Chilean and international environmentalists and anthropologists with members of the indigenous groups and forced a series of significant reforms on the IFC, including its first compliance ombudsman, expanded environmental impact reviews, and a new disclosure policy. Remarkably, the Bio-Bio debates forced the IFC for the first time to release publicly an environmental assessment before the board's review, thus allowing debate about the assessment's deficiencies.<sup>40</sup> But secrecy habits die hard: the independent review ordered by the World Bank's president and carried out by the former head of the National Wildlife Federation ended up heavily censored by the Bank, with almost a third of the report never made public. According to the 25 July 1997 letter by Dr. Jay Hair to Wolfensohn, "numerous deletions that appear to have been made for no other reason than to avoid embarrassing the individuals who made certain decisions regarding the Pangué project or how it was supervised by the IFC."<sup>41</sup> At the same time that the Bio-Bio campaign produced reforms at the IFC, and even some significant success at the national level for the development of democratic institutions in Chile, the effort failed at the local level because the dams went forward, the power company succeeded in its divide-and-conquer tactics and dominated the local foundation set up to benefit the indigenous community, and only a handful of Pehuenche families were able to hold out for their original goal of stopping the dams.

Campaigners achieved more success against the Arun III dam project in Nepal, which became the poster child of the 50<sup>th</sup>-anniversary campaign against the World Bank, and the first claim presented to the new Inspection Panel, in 1994-1995. The Arun case ultimately obliged the new Bank president James Wolfensohn to take sides in the preexisting internal debate over the project's viability, and revealed how transnational advocacy networks can sometimes tip the balance. The claim and the Inspection Panel's report provoked Wolfensohn to withdraw the Bank's support for Arun III (the Nepal

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<sup>40</sup> David Hunter, Cristian Opaso, Marcos Orellana, "The Biobio's Legacy: Institutional Reforms and Unfulfilled Promises at the International Finance Corporation," in Dana Clark, Jonathan Fox, Kay Treakle, *Demanding Accountability* (2003), pp. 115-143.

<sup>41</sup> *Ibid.*, pp. 128-129.

government has not since been able to finance the project), and established the Inspection Panel as a viable accountability institution. Even so, the Bank attempted to prevent the release of the final panel report in August 1995, but its hand was forced because portions had leaked out “which is causing distortion of the facts and embarrassment to the Bank.”<sup>42</sup>

The China Western Poverty Reduction Project was perhaps the most recent “turning point” case in the transparency struggle at the World Bank. Starting in 1999, the Bank sought to support the Chinese government’s plan to resettle some 58,000 poor farmers onto lands traditionally roamed by nomadic Tibetan and Mongolian peoples. Local people sent letters seeking international support against the plan, and Tibet solidarity groups worked with the Bank Information Center and other Bank watchdogs to generate skepticism in donor governments and intense media coverage – including television images of protesters scaling the façade of the Bank building with their signs. The campaign led to high-level diplomatic tensions between the Bank, its largest donor (the U.S.), and its largest borrower (China); an unusually intense level of board engagement; a scathing report by the Inspection Panel; and ultimately the cancellation of the Project. The Panel report not only documented the project’s systematic violation of the Bank’s “safeguard” policies, but went further to reveal weaknesses across the Bank’s entire system for avoiding and mitigating environmental and social risks. The Bank responded with a new commitment to the safeguards and a series of checks and balances to ensure compliance.<sup>43</sup> Yet this victory for transparency did not ameliorate conditions for the Chinese and Tibetans affected by the project, because the Chinese government went ahead without the World Bank, whose president, James Wolfensohn, argued that “at the end of the day it would have been better if we were involved in the project than if we were not at all.”<sup>44</sup> The Tibetan support groups disagreed, given the inadequacies of the

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

<sup>43</sup> Dana Clark and Kay Treakle, “The China Western Poverty Reduction Project,” in Dana Clark, Jonathan Fox, Kay Treakle, *Demanding Accountability* (2003), pp. 211-245.

<sup>44</sup> Sathnam Sanghera and Stephen Fidler, “World Bank Chief Under Fire after Chinese Project,” *Financial Times*, 14 July 2000, p. 5.

Bank's performance, the limitations imposed by China, and the legitimacy bestowed by Bank sponsorship.

These struggles over controversial projects from the Polonoeste to Tibet also catalyzed a remarkable pro-openness dynamic – directed internally rather than externally – on the part of the professional staff of the Bank and the other institutions. For example, in the authorized history of the Bank's environmental dealings, based on almost complete access to the Bank's files, the author subtly denigrates what he terms the “extreme” rhetoric of the NGO activists, but he reserves his deepest scorn for the internal deception and secrecy evident from the Bank's own documents, and often deployed by Bank staff against management and even the Bank's board. For example, two years after the board had approved the first phase of the Amazon highway project, “some Board members expressed concern about Polonoeste. To each the staff gave reassuring replies that concealed much contrary information. And the staff misled not only the Board but also the president. In a briefing paper on Polonoeste to [A.W.] Clausen in December 1983, the staff wrote, ‘...Implementation of the Special Project [for Amerindian protection] is now satisfactory’... Evidence from the files shows that the division chief was busy telling the Brazilian government that implementation was very unsatisfactory. Few of the thirty-seven Indian reserves had been demarcated and registered, and many had been invaded by squatters, loggers, and others.”<sup>45</sup>

This critique suggests one significant component of a growing commitment by the World Bank to greater openness: the realization by the Bank itself that internal barriers to information-sharing generated bad decisions and trapped the Bank in bad projects. For example, after NGO critics had shown the myriad ways in which the Narmada dam project failed to meet stated Bank policies, the Bank staff began to fool itself. The authorized history described the situation this way, in a remarkable soliloquy: “Retrofitting is difficult. The effort to do so in Narmada as NGO pressure built up then began to produce apparently deceitful behavior on the part of the operational staff [of the World Bank]. Their logic went like this. 1. We know things are not going well in the

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<sup>45</sup> Robert Wade, “Greening the Bank,” pp. 649-650, citing the summary of discussions at the meeting of the executive directors, 25 October 1983, the acting regional vice president's briefing paper dated 28 December 1983, and a Bank telegram to the Brazilian Ministry of the Interior dated 17 March 1983.

project. 2. But do we want to pull out or suspend? 3. No, it is potentially a damn fine project, and things will go better if we are in. (Anyway, management will not allow a pullout, for ‘country relations’ reasons.) 4. Therefore we need to justify staying in. We do so by sending up reports that things are going well or at least improving, making sure that if anything is said about things that are not going well the phrasing implies that they are minor or on the way to being fixed. The trick is to make the aroma of words do the work that the evidence cannot.”<sup>46</sup>

One result of the openness battles at the World Bank has been an institutional commitment to encourage national and local freedom of information laws. The World Bank Group has produced a series of readings and training manuals for its country staff on government openness, has organized seminars and videoconferences in dozens of countries, has included transparency in its governance recommendations and conditions for financing, and has produced extensive research to the effect that “countries with better information flows also govern better.”<sup>47</sup> Summarizing a host of papers and studies, the World Bank Institute’s Daniel Kaufmann has concluded that transparency is “key to minimizing the risks of financial crises,” “fundamental for enabling sustained development and growth” by encouraging competition and more efficient resource allocation, “a major deterrent to corruption” and state capture, and “a basic democratic right” that serves as a “major ‘empowering’ tool for the citizenry and, through it, for redistribution and poverty alleviation...”<sup>48</sup> Of course, having the World Bank make these arguments abroad makes it harder for the Bank to resist pressure for greater transparency within its own functions.

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<sup>46</sup> Robert Wade, “Greening the Bank,” p. 708.

<sup>47</sup> Roumeen Islam, “Do More Transparent Governments Govern Better?” World Bank Policy Research Working Paper 3077, June 2003, in *Sourcebook on Government Transparency Law: Background Readings for Making Government Accountable: An Introduction to Government Transparency Laws*, World Bank Workshop, 10 December 2003.

<sup>48</sup> Daniel Kaufmann, “Transparency Matters: The ‘Second Generation’ of Institutional Reform,” Special Report on Public Sector Transparency, Development Gateway, <http://topics.developmentgateway.org/special/transparency/template2.do> (accessed 22 April 2005). See also [www.worldbank.org/wbi/governance](http://www.worldbank.org/wbi/governance) for examples of the extensive research carried out by Kaufmann and his colleagues.

But the Bank's proselytizing is not the only model for international institutions; in fact, one of the most prominent of the IGOs – NATO – has actually encouraged greater secrecy among its members. In 2002, the North Atlantic Treaty Organization held its first-ever summit in the capital of a former Warsaw Pact nation – Prague – and formally announced the entry into NATO of seven new members from Eastern Europe and the Baltics. In the case of Romania, *The Times of London* commented that the invitation came “despite its endemic corruption, a systematic lack of government transparency and poor progress towards a Western-style civil society.” Romanian president Ion Iliescu chose to emphasize that joining NATO would allow Romania “to be integrated into the civilized world, and to receive necessary support for internal reforms”; and NATO officials complimented the Romanian military for “satisfying its Membership Action Plan, a detailed set of changes in both the military and civilian sectors that NATO assigns applicant countries” including “promoting the rule of law.”<sup>49</sup>

One of the most significant NATO assignments, however, has almost completely undercut Romania's halting progress towards greater freedom of information, by forcing Romania to adopt a state secrets law that conforms to NATO's own information security system – itself a relic of Cold War secrecy thinking. Romania's new secrecy law, enacted in 2002, creates a broad authority to withhold information that has been deemed sensitive by government officials, and trumps the 2001 Law Regarding Free Access to Information of Public Interest. In fact, the NATO accession process has contributed to new state secrets laws in 11 Central and Eastern European countries that otherwise had been in the vanguard of the international freedom of information movement in the 1990s. Yet NATO has refused to make its standards publicly available and has instructed NATO countries to decline requests for its policy under national FOI laws.<sup>50</sup> New intergovernmental cooperation in the war on terrorism is likely to deepen and expand this emphasis on information security rather than openness on the part of NATO, other

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<sup>49</sup> See Adam LeBor, “Alliance bends its rules for strategic Romania,” *The Times (London)*, 20 November 2002; for the Iliescu quote and the “Membership Action Plan,” see Robert G. Kaiser, “Romania Sees NATO Membership as Remedy for Post-Communist Ills,” *The Washington Post*, 21 October 2002, p. A18.

<sup>50</sup> For a detailed analysis and critique of the NATO-imposed secrecy laws, see Alasdair Roberts, “Web of Secrets: NATO's Security of Information Policy and the Right to Information,” *East European Constitutional Review*, 11.3/4 (2003).



regional security alliances and international governmental organizations (IGOs), even though the various investigations of the September 11, 2001 terrorist attacks indicate that secrecy was part of the problem, and that greater openness rather than reflexive secrecy makes a better strategy against terrorism.<sup>51</sup>

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

Unlike NATO's information policies, those of the international financial institutions are largely on the public record and susceptible of analysis. One useful framework for such an analysis looks at institutional openness in three cross-cutting arenas: participatory disclosure, review mechanisms, and governance. Participatory disclosure means openness that empowers participation in the decisionmaking process of the institution, rather than end-stage disclosure of decisions that have already been made. All of the international financial institutions are demonstrably better at the latter than at sharing detailed information early in the deliberative process. Review mechanisms involve process guarantees such as requirements that information refusals be made in writing, that refusals be subject to a "harm test" or "public interest test" as in many national freedom of information statutes, and that requesters have the right of appeal for independent review of the withholding. Governance means simply the level of meaningful public oversight for the governing bodies of the institutions.

At the multilateral development banks, for example, almost total secrecy surrounds the operations of the boards of directors; while at the World Trade Organization, trade negotiations and arbitrations that have the force of law take place behind closed doors. This example also points to a key difficulty in comparing openness policies across different institutions. A comparative approach is essential to identify best and worst practices and to raise the overall standards of openness. However, the core problem for comparative analysis along any dimension, not only openness, arises from the institutions' differences in form, function, governance, process, and financial

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<sup>51</sup> See Thomas S. Blanton, "National Security and Open Government in the United States: Beyond the Balancing Test," in Alasdair Roberts, ed., *National Security and Open Government* (Syracuse, N.Y.: Campbell Public Affairs Institute, 2003), pp. 33-74.

instruments. For example, an IMF loan serves a very different function than does a World Bank loan; the Asian Development Bank has a very different decision-making process (dominated by Japan) than does the Inter-American Development Bank (dominated by the U.S.); and the World Trade Organization has no lending cycle at all.

Each of the international financial and trade institutions has promulgated a formal disclosure policy, and several have gone through two or more revisions of those policies based on actual experience and input from outsiders.<sup>52</sup> Several of these institutions have also included transparency procedures in their compliance requirements for host governments; yet those transparency requirements often fall far short of achieving openness – stated policy is one thing; actual practice is another. Likewise, experts based in Washington D.C. or other financial centers enjoy levels of access to IFI information far greater than that of indigenous people in the forests of Cambodia, to take only one recent example. Also, institutions that rank highly in one dimension may fail on others. The country of Singapore, for example, ranks at the top of the Transparency International index (measuring corruption perceptions) and serves as the baseline for the PriceWaterhouseCoopers “Opacity Index” (which measures lost foreign investment in relation to perceived opacity in given countries), yet when journalists affiliated with the Southeast Asian Press Alliance asked eight countries in the region for 45 specific items of government information, Singapore provided less than 50%, about equivalent to Cambodia.<sup>53</sup>

To begin the process of measuring and comparing the international institutions, a team of analysts from the Bank Information Center, a leading NGO in the campaigns for greater accountability at the World Bank and other financial institutions, and *freedominfo.org*, a virtual network of international freedom of information advocates, created a “matrix” database compiling policy and practice information on openness. The initial versions of the database, released in draft form in April 2004 and revised for release in February 2005, focused on ten key financial institutions: the World Bank,

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<sup>52</sup> Links to each of the IFTI disclosure policies are included at [www.freedominfo.org/ifti.htm](http://www.freedominfo.org/ifti.htm)

<sup>53</sup> See “Open for Business,” sidebar in Thomas Blanton, “The World’s Right to Know,” op. cit., p. 54; also Sheila Coronel, ed., *The Right to Know: Access to Information in Southeast Asia* (Quezon City: Philippine Center for Investigative Journalism, 2001).

International Finance Corporation, Multilateral Investment Guarantee Agency, European Investment Bank, European Bank for Reconstruction and Development, Inter-American Development Bank, Inter-American Investment Corporation, African Development Bank, Asian Development Bank, and International Monetary Fund. This 255-item matrix made possible the most sophisticated comparison ever of IFI transparency policies and practices.<sup>54</sup> The matrix broke down the banks' processes into categories such as "general institutional information," "the lending cycle," "bank-wide policies, guidelines, procedures and strategies," "evaluations and audits," "country-specific analysis and strategy papers," "governing bodies," "accountability mechanisms," "process guarantees," and "archives-websites-information centers." Within each category were as many as 30 different information types. For example, "the lending cycle" included social and environmental review procedures, early identification of potential loans, project preparation including feasibility and environmental assessments, pre-approval notification and approval discussion, implementation and supervision reporting, and completion and evaluation reporting.

The findings of the IFI Transparency Resource indicated many common weaknesses – few open meetings, the delayed release of many documents, the confidentiality of many documents, and no clear procedures to request information. The contrasts indicated that there are some areas where one or more institution has moved ahead, such as the fact that the Asian Development Bank and the African Development Bank are the only institutions to release certain environmental information 120 days prior to project approval for both public and private sector lending, and the InterAmerican Development Bank became the first to release its board of directors minutes. While none of the banks stands out across all the transparency categories, the matrix does show the World Bank with the highest disclosure standards generally – no small testament to the focused campaigns on the Bank as well as to the internal Bank forces for reform, and a

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<sup>54</sup> Bank Information Center and *freedominfo.org*, *Opening the International Financial Institutions: The Complete Transparency Resource and Database*, (Washington D.C.: 22 April 2004, and 7 February 2005). Contributors included Abigail Parish, Toby McIntosh, Jen Kalafut, Graham Saul, and Thomas Blanton. Available at [www.ifitransparencyresource.org](http://www.ifitransparencyresource.org).

signal that the Bank does have the opportunity now to set the “gold standard” to which the other IFIs should aspire.

But the “presumption” of disclosure, claimed by many institutions as cornerstones of their policies, was seriously undercut by a plethora of exceptions that turn disclosure on its head and only allow those documents specifically listed as releasable to come out. Nor were there procedural avenues for those who feel access has been unfairly denied, or “process guarantees” such as clear standards on what should be disclosed, a promise of timely response, or a right of appeal. The policies were not tested on any scale for balancing the legitimate need for confidentiality with the public interest in transparency. The disclosure policies also appeared to reflect substantial deference to private corporations. The matrix data revealed that there is little coherence in the transparency of institution-wide policy development; disclosure tended to come after decisions have been made; little information was released during project implementation; financial intermediary lending was generally exempt from disclosure rules; and some dissemination efforts lacked procedures. The study indicated that basic institutional information was consistently released, but that the institutions were generally weak when it came to giving the public specific information on how to contact directors or staff members. Meanwhile, the governing bodies were almost completely closed to public scrutiny, with no minutes, voting records or transcripts available, except at the IADB. The meetings of the major decision-making bodies were uniformly held in private, and post-meeting announcements came in different forms and levels of specificity.

None of the ten IFIs included in the matrix study had clear procedures regarding the transparency of policy review and development processes. Among other things, none of the institutions released external comments made during a policy review. Nor were drafts of proposed policies made available consistently before board action. Financial statements and audits were generally available, but more specific reporting on evaluations was often not disclosed. Most IFIs disclosed the final economic reports or analyses for specific countries, but the preparation of them was largely opaque. As for project lending, none of the IFIs released the draft board reports on potential projects, and background feasibility and technical studies were difficult to obtain. Policies on the release of environmental information varied widely. Project implementation and

supervision was arguably the most secretive phase of the project cycle. Similarly, the lending activities of financial intermediaries were subject to a much lower standard of disclosure. Only a few institutions had accountability mechanisms – the systems that may allow IFI employees or outsiders to raise grievances – and few lived up to the most transparent mechanism, the Inspection Panel found at the World Bank. None of the IFIs had an institution-wide, binding translation policy. Many of the IFIs had archive policies with timelines for declassifying materials, among which the Asian Development Bank is the most progressive, with a five-year declassification period, but disclosure was still subject to government consent. In sum, the matrix study demonstrated that the highly-touted disclosure policies of the international financial institutions are more akin to sophisticated publications schemes than they are to the new national freedom of information laws.

### **Contemporary Issues and Debates**

Probably the largest single debate, at least in the activist networks, is the argument over abolition versus reform of the international financial and trade institutions; and the greatest virtue of openness in this debate is that the concept works for both sides. One expert observer has characterized the World Bank inspection panel as “one of the first institutional reforms that was extracted by what has since come to be called a ‘fix it or nix it’ bargaining strategy. The ‘fix it or nix it’ slogan became prominent in the Seattle 1999 challenge to the WTO, but sums up a debate that goes back to the ‘50 Years Is Enough’ campaign against the World Bank and the IMF in the early 1990s. This slogan can be read in two different ways: first, as a bargaining strategy, as in ‘either you fix it or we will try to nix it’; and second, as referring to the more reformist and radical wings of the movement against corporate globalization.”<sup>55</sup> Put another way, what the author Robin Broad terms the “global backlash” includes both those efforts to “roll back” the corporate-led globalization process, and campaigns that are trying to “reshape” it, and these two approaches often overlap and even coexist in practice, depending on variables

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<sup>55</sup> Jonathan Fox, “Introduction,” in Dana Clark, Jonathan Fox, Kay Treakle, eds., *Demanding Accountability*, p. xxvi.

such as the political moment, the issue, and the campaign.<sup>56</sup> Perhaps all the actors involved understand that winning full transparency along each of the dimensions of participatory decisionmaking, review mechanisms, and governance of the international financial and trade institutions would indeed revolutionize their operations, rather than simply reform them.

More specific debates revolve around the hangover of “business confidentiality” in the IFTIs. Before the campaigns and reforms of the 1980s and 1990s, this presumption of a fiduciary responsibility on the part of the IFTIs towards borrowers and contractors overrode all other considerations during decisions about transparency. This has changed somewhat, but the hangover continues, despite all the openness commitments. In November 2002, for example, it required no less than a Supreme Court decision in Uganda to break the World Bank’s version of this barrier, with significant consequences. A Ugandan High Court justice overruled the Ugandan government and the World Bank to order the release of a key document defining the commercial arrangements relating to a controversial Nile River dam project supported by the World Bank. The \$550 million dollar Bujagali dam will commit the already heavily-indebted country to pay billions of dollars to the private corporation that will own and operate the project for the resulting electricity, whether or not Uganda can re-sell the power elsewhere in Africa; yet the World Bank refused to require release of the Power Purchase Agreement between the corporation and Uganda. An internal World Bank ombudsman report in September 2001 noted that if the project’s sponsor “wants to maintain a degree of secrecy consistent with a private sector project, perhaps public institutions should not be asked to provide guarantees for or subsidize the undertaking.” Concerned citizens and civil society groups in Uganda went to court, citing Article 41 of the Ugandan constitution as requiring release of the document, and High Court justice Egonda-Ntende agreed with them. A subsequent NGO analysis of the document concluded that Ugandans “will pay hundreds

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<sup>56</sup> Robin Broad, ed., *Global Backlash: Citizen Initiatives for a Just World Economy* (Lanham, MD: Rowman & Littlefield, 2002).

of millions of dollars in excessive power payments” as a result of the project.<sup>57</sup> Yet the biographer of the World Bank’s president, James Wolfensohn, was able to interview a number of Ugandan families who would receive cash compensation for their land from the dam builders and conclude therefore that the story was a “tragedy for Uganda” because the protests were holding up electric power that would supply “clinics and factories” – never mentioning the excessive payments to the private corporation or the Bank’s own internal critiques.<sup>58</sup>

The blame game of shifting responsibility between international organizations and the host governments also provides cover for continued opacity. In Phnom Penh, about 40 villagers from several Cambodian provinces showed up in front of the World Bank office on Monday, 11 November 2002, and vowed to sleep on the sidewalk until they received copies of the logging plans for the areas in which they lived. That Monday was the beginning of a 19-day public review period required by the World Bank for the plans, which indicate where and how cutting is to occur over the next 25 years. But the government’s Department of Forestry and Wildlife apparently provided the World Bank – its biggest single funder – with only two copies of the plans, both in black-and-white, which obscured the color-coding that specifically outlined logging areas. Villagers demanded color copies to take back to their communities, and told the Bank that neither the logging companies nor the forestry department had consulted with them about which areas should be protected as community forest. Bank officials attempted to negotiate greater access, but simultaneously affirmed the release of a \$15 million loan that had been held up while the Bank pressed the government for the public review. An NGO

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<sup>57</sup> See “Ugandan Judge Orders Release of Key Document on Bujagali Dam,” in *IFTI Watch*, [www.freedominfo.org](http://www.freedominfo.org), posted 22 November 2002, with links to the judge’s decision and the NGO analysis.

<sup>58</sup> Sebastian Mallaby, “NGOs: Fighting Poverty, Hurting the Poor,” *Foreign Policy*, September/October 2004, at [http://www.foreignpolicy.com/story/cms.php?story\\_id=2672](http://www.foreignpolicy.com/story/cms.php?story_id=2672). The Wolfensohn profile by Mallaby is *The World’s Banker: A Story of Failed States, Financial Crises, and the Wealth and Poverty of Nations* (New York: Penguin, 2004). The Mallaby article and book include a similarly one-sided treatment of the China Western Poverty Reduction Project.

observer called the review process “a farce,” but a Bank official told reporters “it’s a first, it’s a start... not insignificant.”<sup>59</sup>

The Cambodian villager confronting her own authoritarian government faces an even more difficult task in the face of the international institution. The links from citizen to international institutions remain tenuous even in robust democracies, where elected representatives form governments that appoint high officials who then select directors for the World Bank or the IMF. For undemocratic countries, there is no chain of accountability and the attenuation of representation involved in arrangements like the IMF’s, where a single executive director represents a whole group of countries, demolishes any notion of answerability.<sup>60</sup>

In response to the answerability problems in both directions (national and international), reformers inside and outside international institutions have welcomed the emergence of parliamentarians as a new source for dialogue, engagement, oversight, and even to a limited but growing extent, participatory representation. For example, the World Bank hosted in 2000 the first-ever formal meeting of parliamentarians with top Bank leaders, including 50 individuals from about 30 countries; and the Parliamentary Network on the World Bank subsequently separated itself from Bank sponsorship, set up independent offices, and greatly expanded its reach. Its 2004 annual meeting attracted 183 parliamentarians from 70 countries, and the Network has pressed the Bank not to approve Poverty Reduction Strategy Papers unless governments have them reviewed by their legislatures.<sup>61</sup> The IMF has experienced a wide range of parliamentary interaction,

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<sup>59</sup> Richard Sine and Nou Pohours, “Villagers Beg World Bank for Logging Plans,” *Cambodia Daily*, 12 November 2002 (posted 2 December 2002 at [www.freedominfo.org](http://www.freedominfo.org)).

<sup>60</sup> For an eloquent expression of this attenuation and the possibilities of enhanced parliamentary engagement in the IMF context, see Andrew Eggers, Ann Florini, Ngaire Woods, “Chapter One: Accountability, Parliaments and the IMF Board,” in Barry Carin and Angela Wood, eds., *Enhancing Accountability in the International Monetary Fund*, Centre for Global Studies, University of Victoria (Canada), November 12, 2003 DRAFT, pp. 8-24.

<sup>61</sup> Toby McIntosh, “Parliamentarians Seek Larger Role in IFI Decision-Making,” 30 September 2004, [www.freedominfo.org/ifti/worldbank/20040930a.htm](http://www.freedominfo.org/ifti/worldbank/20040930a.htm); “Parliamentarians Flex Growing Organization, Make Request of Bank,” 24 February 2004, [www.freedominfo.org/ifti/worldbank/20040224.htm](http://www.freedominfo.org/ifti/worldbank/20040224.htm); Norbert Mao, “Experiences with the Parliamentarians Network on the World Bank: A View from the Inside,” in Barry Carin and Angela Wood, eds., *Enhancing Accountability in the International Monetary Fund*, Centre for Global Studies, University of Victoria (Canada), November 12, 2003 DRAFT, pp. 25-27.



ranging from the “very hard oversight” exercised by the U.S. Congress in making the release of approved funding conditional on certain IMF reforms, to “soft oversight” such as the U.K. House of Commons’ questioning of IMF officials in 2002, to the rejectionist positions taken by several national parliaments against IMF agreements in which they had no voice (such as the Turkish parliament forcing the national government to break its promise to the IMF in 1998 about holding down public sector salaries).<sup>62</sup> Even the former director general of the WTO has called for greater national engagement with the international institutions, especially through parliamentarians: “[A] group of senior parliamentarians, serving in their national legislatures, should form a democratic caucus to provide systematic oversight of international institutions, focusing particularly on increasing the transparency of these organizations.... Not [to] replace national governments, but only strengthen their role in holding these agencies to account.”<sup>63</sup>

National openness analogies also offer some interesting principled approaches that hold great promise for cross-cutting application to the international institutions. Many commentators have described the rise of the administrative state in the 20<sup>th</sup> century as a major challenge to democratic governance in many of the same ways that analysts now criticize the international institutions, as secretive and capricious bureaucratic power unaccountable to those affected. The 20<sup>th</sup> century reform response to the administrative state was to limit, regulate, and legitimize that bureaucratic power, through more open and participative rulemaking procedures, appeal mechanisms, requirements for reasoned decisionmaking and substantive standards like proportionality, judicial review, and the expansion of citizen rights even more than legislative or executive responsibilities.<sup>64</sup> A classic example of this reform approach was the 1946 Administrative Procedures Act in the U.S., which included in nascent form what became in 1966 the Freedom of

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<sup>62</sup> Andrew Eggers, Ann Florini, Ngaire Woods, “Chapter One: Accountability, Parliaments and the IMF Board,” in Barry Carin and Angela Wood, eds., *Enhancing Accountability in the International Monetary Fund*, Centre for Global Studies, University of Victoria (Canada), November 12, 2003 DRAFT, pp. 8-24.

<sup>63</sup> Mike Moore, “Multilateral Meltdown: It’s time for another walk in the Bretton Woods,” *Foreign Policy*, March/April 2003, pp. 74-75.

<sup>64</sup> A succinct expression of this analysis with extensive citations to the literature can be found in Alasdair Roberts, “A Partial Revolution: The Diplomatic Ethos and Transparency in Intergovernmental Organizations,” *Public Administration Review*, July/August 2004, Vol. 64, No. 4, pp. 410-411.

Information Act. The APA compelled a notice-and-comment procedure by federal agencies for any regulation or policy change that would affect private parties or state and local governments. The procedure included litigation rights if the agency failed to provide notice or failed to take into account public comment, or otherwise flouted the participatory intent of the statute. Today, an entire section of the American Bar Association specializes in administrative law; and additional notice-and-comment-type provisions routinely show up in U.S. regulation and legislation (as the legal basis for environmental impact statements, for example). The experience has “not been a source of unmitigated joy in American rulemaking,” since comment periods have “often taken on the look of an Internet poll where those interest groups with the most time and ambition can collectively submit thousands of replies about a proposed rule” and agencies spend “months and sometimes years responding in a substantive way to every individual comment no matter how trivial to pass judicial scrutiny.”<sup>65</sup>

Yet the development of administrative law has dramatically restrained bureaucratic power and increased public participation in rulemaking and governance in the U.S., so much so that debates over its application to international institutions have become central to the discourse about answerability and participation in the globalized world, both inside and outside those institutions.<sup>66</sup> For example, the first decision of the WTO’s appellate body in the 1996 Shrimp/Turtle case criticized the United States for curtailing shrimp imports without giving any of the affected countries the “formal opportunity to be heard, or to respond to any arguments that may be made against it.”<sup>67</sup> A recent set of recommendations for reform of the WTO capped its list of proposed changes with the idea of a global “Federal Register” where all international

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<sup>65</sup> Rob Hennig, “Review of *Rulemaking, Participation and the Limits of Public Law in the USA and Europe*, by Theodora Ziamou,” *Law and Politics Book Review*, Vol. 11, No. 11 (November 2001), pp. 495-498, accessed at [www.bsos.umd.edu/gvpt/lpbr/subpages/reviews/ziamou.htm](http://www.bsos.umd.edu/gvpt/lpbr/subpages/reviews/ziamou.htm) (10 May 2004).

<sup>66</sup> For an excellent overview, from which much of this discussion is drawn, see Benedict Kingsbury, Nico Krisch, and Richard Stewart, “The Emergence of Global Administrative Law,” New York University, Institute for International Law and Justice, Global Administrative Law Series, IILJ Working Paper 2004/1, accessed at [www.iilj.org/global\\_adlaw/index.htm](http://www.iilj.org/global_adlaw/index.htm) (19 April 2005).

<sup>67</sup> See WT/DS58/RW, *United States – Import Prohibition of Shrimp and Shrimp Products*, Panel Report, 3.180 *et. seq.* (1996), quoted in Kingsbury, Krisch, Stewart, “The Emergence of Global Administrative Law,” p. 24.

organizations, not only the WTO, would post notices of pending decisions, declarations and agreements, and seek comment from the public.<sup>68</sup> Some of the international institutions themselves have taken up such suggestions: For example, the Basel Committee of central bankers solicited comments from banks, industry groups, and other interested parties through a largely public process of establishing a new capital adequacy framework starting in 1999 (the final policy was issued in June 2004).<sup>69</sup>

Clearly, the international institutions have already built a global administrative space, populated with dense regulatory regimes such as the WTO, the Organization for Economic Cooperation and Development, the committees of the G-7 and G-8, the financial regulation carried out by the IMF or the Basel Committee, and the product and process rules adopted by the International Standardization Organization (ISO), to name only a few. Even this short list gives a sense of the wide variety of global administration, which is carried out by formal international and treaty organizations, by transnational networks of government officials taking collective action, by private institutions with regulatory functions, by hybrid private-intergovernmental arrangements, or by national regulators under treaty regimes or cooperative standards. The logic of applying administrative procedures restraints to the growing regulatory power of the international bodies seems widely accepted, even by many of the institutions themselves, but the debate has moved to a more complicated level where many of the most important questions remain outstanding. For example, at the basic level of review, what new arrangements will be required to provide the equivalent of judicial review to the international organizations? After all, even the U.N. Security Council has failed so far to establish an independent body to scrutinize its sanctions decisions. At the normative level, what is the democratic basis for global administrative law in the absence of electoral or other models of direct representation at the global level, or put another way, through what mechanisms can global participation or deliberation actually occur? And would global administrative accountability actually aggravate the North-South cleavages

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<sup>68</sup> Steve Charnovitz, "Economic and Social Actors in the World Trade Organization," *ILSA Journal of International And Comparative Law*, Vol. 7 (2001), p. 274.

<sup>69</sup> See the Basel Committee web site at <http://www.bis.org/bcbs/aboutbcbs.htm> (accessed 20 April 2005).

and distributional issues already present in the globalized world, by empowering primarily Northern populations, market actors, social interests, and states?<sup>70</sup>

### **Lessons Learned**

The history of constant struggle for the past 30 years over issues of openness and accountability at the World Bank and the other international institutions holds significant lessons for activists, analysts, citizens and the institutions themselves. The extraordinary pattern of grudging reforms preceded and enveloped by clouds of rhetorical commitments, suggests that the eloquent abolitionist and former slave Frederick Douglass had it right: “Power concedes nothing without a struggle.” The authorized history of the World Bank’s interaction with environmental issues contains a constant refrain of pressure and reform: “[G]overnance reforms of the mid-1990s, intended to make the Bank more transparent and publicly accountable, reforms that were once again prompted mainly by environmental NGOs.”<sup>71</sup> “[O]utside pressure was critical in getting the Bank to take action: ‘There were a number of outside groups who were quite vociferous... in bringing this to our attention... groups like Amnesty International, the Harvard group of Cultural Survival... and others. They were quick to chastise us and rightly so.’”<sup>72</sup>

The lesson is that pressure works, and money pressure works best: The World Bank finally installed the Inspection Panel and issued its information disclosure policy after the U.S. Congress threatened to hold up refunding its capital accounts. Also important are rhetorical commitments, which provide leverage: It was the Bank’s successive and nearly continuous violations of its own stated policies that gave activists and affected populations the handles to force accountability and openness. Such policy commitments may seem empty at first or in the face of systemic flouting, yet they empower challenges to power in unexpected ways (as did the Helsinki agreements of

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<sup>70</sup> See discussion in Kingsbury, Krisch, Stewart, “The Emergence of Global Administrative Law,” pp. 31-39.

<sup>71</sup> Robert Wade, “Greening the Bank,” p. 613.

<sup>72</sup> *Ibid.*, p. 630.

1975 and the impetus thus given to the dissent movements that brought down the Berlin Wall).<sup>73</sup> Today, the primary dynamic is that of keeping up with the neighbors: In openness consultations with IFTI staff, the constant refrain is not about “best practices,” but queries about what other IFTIs are doing. In this regard, the focused pressure on the World Bank has had significant ripple effects on all the regional development banks, to the point that several of them have gotten ahead of the others on one or more measures of openness (such as the InterAmerican Development Bank releasing its board meeting minutes). Now activists are producing report cards rating and comparing the banks as a key tool pushing toward openness reforms.

It is also clear that the biggest change occurs when external critics gain internal allies, such as the World Bank leadership that set up the Inspection Panel in 1993-94, or the anti-corruption unit within the Bank that has challenged the general counsel’s office over continued secrecy around the contractors banned or penalized by the Bank for corruption, or the Scandinavian countries that pushed the European Union away from its initial lowest common denominator secrecy towards formal process guarantees on openness. This internalization process is vital to success. The Congressional Research Service analyst who has followed the transparency struggle most closely has commented that: “The main problem with seeking transparency, in my experience, is finding a way of getting information without pushing the real decision process into another place where it is away from the window and only the cleaned-up results are transparent. The institutions have to want to be transparent because they believe it is in their best interest. A hard nut to crack.”<sup>74</sup>

The most successful campaigns bring human faces to esoteric policies and projects, link activists and analysts across national borders, and apply the same demands for transparency and accountability at every level of governance, from the local project to the national government to the international institution. More and more often, this

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<sup>73</sup> Daniel C. Thomas, *The Helsinki Effect: International Norms, Human Rights, and the Demise of Communism* (Princeton, N.J.: Princeton University Press, 2001).

<sup>74</sup> Jonathan Sanford, Congressional Research Service, Washington D.C., e-mail communication, 16 May 2003.

struggle bases its claims on a rights discourse,<sup>75</sup> much to the dismay of the international institutions. The World Bank's James Wolfensohn, for example, commented to a 2004 meeting of Greenpeace activists in London, "[I]f I talk about a rights-based approach, I get letters [from board members] saying I have exceeded my authority because we are a financial institution. Many countries on our board have signed the declaration of human rights but say this is not the job of a financial institution."<sup>76</sup> But the democratic deficit is compelling all the international institutions to take on the job of establishing legitimacy, while their critics and those affected by the institutions' decisions will continue to contest divergent notions of legitimacy and justice. The struggle for global transparency, like the history of administrative law reforms, demonstrates that all such change is the function of the power relations of various actors, who create new procedures and new openness as new actors gain power, particularly in moments of legitimacy crisis, like now.

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<sup>75</sup> See Alasdair Roberts, "Structural Pluralism and the Right to Information," *University of Toronto Law Journal* 51 (2001), pp. 243-271.

<sup>76</sup> "Wolfensohn discusses human rights, environment at Greenpeace lecture," Bretton Woods Project posting, 24 May 2004, at [www.brettonwoodsproject.org/article.shtml?cmd\[126\]=x-126-51253](http://www.brettonwoodsproject.org/article.shtml?cmd[126]=x-126-51253) accessed 28 June 2004.