

The World Bank as an Enforcer of Human Rights*

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Abstract

Following decades of criticism from the human rights community, the World Bank designed two novel quasi-judicial bodies to respond to complaints submitted by or on behalf of project-affected communities: the Inspection Panel and the Compliance Advisor/Ombudsman (CAO). The first venues for private actors to hold international organizations accountable for harms created by their operations, the Inspection Panel and CAO changed the landscape of development finance and international administrative law. Yet, little is known about their performance. This paper introduces new data on the types of actors that bring complaints before the Inspection Panel and CAO, the issues raised and the frequency and nature of successful outcomes. We develop and test theory regarding the determinants of complaint success. We theorize that non-governmental organization (NGO) involvement in the complaint process increases the likelihood of complaint success and that indigenous peoples are more likely to gain favorable outcomes. Consistent with these expectations, we find that NGO involvement enhances the likelihood of project change and compensation. We also find that indigenous communities are more likely to receive a formal acknowledgment of harm and have projects changed. We conduct elite interviews and perform a mediation analysis to discern the mechanism through which NGOs enhance complaint outcomes: selection or capabilities, and find support for both.

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1 Introduction

What is the relationship between development aid and respect for human rights? Some argue that development assistance, which is often coupled with various conditions on recipient states, has a positive impact on human rights (Eriksen and De Soysa, 2009), while others submit that this assistance encourages development paths that undermine respect for human rights (Abouharb and Cingranelli, 2006, 2007; Richards, Gelleny and Sacko, 2001). In the case of international financial institutions (IFIs) such as the World Bank, scholars document a history of policy failure and a “culture of approval”; that is, a preference for increasing the institution’s loan portfolio “without adequately taking into account the social and environmental consequences of the project lending” (Carrasco and Guernsey, 2008, 579). Many argue that development financiers have little regard for social and environmental impacts of economic development; development is their first and last concern.

This paper offers a possible rejoinder. We find evidence that communities can and do defend their rights against IFIs, utilizing accountability mechanisms embedded within these institutions. Two such mechanisms are the World Bank’s Inspection Panel and Compliance Advisor/Ombudsman (CAO). In some cases, the Inspection Panel and CAO provide substantive relief and redress to project-affected communities, such as formal acknowledgment of harm, project change or termination, and compensation, and there is evidence they also shape the Bank’s lending behavior (Buntaine, 2015). However, the overall effectiveness of these bodies has been difficult to assess in the absence of comprehensive data on their performance.

For decades, human rights scholars, practitioners, and activists rebuked the World Bank’s financing and execution of development projects. Notably, transnational advocacy groups’ documentation of systematic violations of the Bank’s social and environmental safeguard policies in high-profile projects—e.g., the Sardar Sarovar projects on the Narmada River in India and the Bío Bío hydroelectric project in Chile—reinforced the Bank’s poor reputation for human rights. In the late 1980s and early 1990s, these advocacy groups, in partnership with donor governments, pressured the World Bank to create the Inspection Panel and the CAO—two novel internal accountability mechanisms designed to respond to complaints made by persons harmed or likely to be harmed by Bank-funded development projects. Since 1993 and 1999, respectively, the Inspection

Panel and CAO have provided a venue for project-affected communities to communicate the harms they experience, gain public acknowledgment of these harms, and receive reparations. Despite being the first fora for private actors to hold international organizations (IOs) accountable for harms created by their operations, the Inspection Panel and CAO have been largely neglected by the scholarship on IOs, development, and human rights practice.

Dedicated to preventing, mitigating, and repairing environmental and social harms associated with development, the Inspection Panel and CAO are a novel addition to a long list of quasi-judicial bodies with “a mandate to monitor compliance with a body of norms, settle disputes regarding those norms, or make determinations on the basis of investigations” (Tignino, 2016, 242). Other such bodies include truth commissions which inquire into historical political violence, the Aarhus Compliance Committee which assesses international environmental compliance, and the Committee on Economic, Social and Cultural Rights which oversees implementation of the 1966 Covenants (Bissell, 1997; Hayner, 2000; Minow, 1998; Tignino, 2016). These bodies “keep parties accountable for the norms they have committed to by drawing attention to shortcomings, resolving ambiguity and uncertainty and thereby encouraging compliance” in aid of individuals and communities adversely impacted by noncompliance and who would not otherwise find relief and redress (Tignino, 2016, 260).

Since their creation, the Inspection Panel and CAO have been widely copied by other IFIs—similar accountability mechanisms now operate in at least 15 other institutions (Accountability Counsel, 2015; Gutner, 1999; Nanwani, 2014). However, until now, no rigorous, comprehensive assessment exists regarding the types of complaints brought before these bodies, the conditions under which complainants prevail, or the types of remedies that they receive. In short, these institutions are being widely copied with little knowledge of whether or not they are achieving the goals for which they were created.

The Inspection Panel and CAO are occasionally cited as evidence of the World Bank’s increasingly rights-based approach to development and poverty reduction (Brodnig, 2001; Okogbule, 2011; Sano, 2000). Many scholars and practitioners, however, remain skeptical, suggesting that the Bank is only interested in human rights which pertain to or which support development (Forsythe, 1997; Fujita, 2011; Sarfaty, 2009).

Scholars have also suggested that the Inspection Panel and CAO enhance transparency, pro-

mote accountability, and represent important developments in international administrative law (Benvenisti and Downs, 2009; Bradlow, 1993; Buntaine, 2015; Tignino, 2016). Indeed, the World Bank was the *first* IO to effectively tie its hands, submitting to the evaluations of two independent panels of experts, as well as to external monitoring by civil society organizations (CSOs). Nevertheless, scholars and activists criticize the two bodies, particularly the Inspection Panel, for its inability to independently design, oversee, and enforce remedial actions, as well as assure victim satisfaction (Clark, 2002; Clark, Fox and Treakle, 2003; Carrasco and Guernsey, 2008). Yet, as our research demonstrates, vulnerable populations can and do find relief and redress through both the Inspection Panel and CAO. What’s more, CSOs utilize the two bodies to monitor the World Bank, leading to changes in lending patterns (Buntaine, 2015).

This paper provides a rigorous empirical evaluation of the Inspection Panel and CAO’s performance over the past two decades, including an examination of the relief provided to complainants and the conditions under which complaints are most likely to be successful. We introduce a comprehensive new dataset covering the universe of Inspection Panel and CAO cases from the inception of these bodies through the spring of 2017. Our data allow us to describe and analyze: (1) the types of actors that bring complaints, (2) the issues raised in complaints (and the types of projects that give rise to them), (3) the outcomes of complaints and the remedies provided to communities who file successful complaints, and (4) the factors that influence the likelihood of success. Of particular theoretical interest are the role of non-governmental organizations (NGOs) in facilitating complaint success and the Inspection Panel and CAO’s responsiveness to complaints filed by indigenous communities. As will be further discussed, we measure complaint success along three dimensions: a formal acknowledgment of harm by the World Bank, project change, and compensation paid to project-affected communities.

The World Bank targets its development projects at some of the world’s least developed areas. In many cases, project-affected communities lack the capacity to effectively file a pseudo-legal complaint with an IO like the World Bank and, indeed, many communities may not even know that the Inspection Panel and CAO exist (Hunter, 2003). Thus, both domestic and international NGOs have assumed the role of assisting project-affected communities in filing complaints with the Inspection Panel and CAO (Bissell, 1997; Buntaine, 2015). We theorize that NGO involvement may increase the likelihood of complainant success through two mechanisms: selection and capabilities. First,

we expect that NGOs screen complaints, only assisting complaints that they view as meritorious. Second, we expect that the NGOs provide valuable capabilities to project-affected communities, including technical capacity, legal expertise, and the ability to apply public pressure on the Bank.

In addition to operating in some of the world’s least-developed areas, the World Bank often interfaces with some of the world’s most vulnerable populations, including indigenous peoples. Historically, indigenous peoples have been less able to assert their interests and defend their claims on land and other productive resources (e.g., natural gas, oil and minerals) due to legal, economic, and social discrimination and marginalization in their respective national contexts (Sargent, 2012). Following intense global criticism regarding large-scale infrastructure and extractive projects’ adverse impacts on indigenous communities in the 1960s, 1970s, and 1980s, the Bank developed operational policies and procedures specifically pertaining to indigenous peoples. These policies—developed and revised over the years—better respond to the reality of indigenous peoples generally benefiting less from development than other sociocultural segments and being exposed to “different types of risks and levels of impacts from development projects, including loss of identity, culture, and customary livelihoods” (World Bank, 2013*b*). That being said, the Bank’s new rules are more difficult to comply with in areas such as project design, risk assessment, community consultation, compensation and sharing of project-related profits. This makes violations and, by extension, credible complaints more likely. We theorize that indigenous communities are, therefore, more likely to gain favorable outcomes before the Inspection Panel and CAO when they do bring complaints.

We evaluate these expectations primarily by relying on the new quantitative data we introduce. In addition, we analyze qualitative data drawn from a series of elite interviews with representatives from NGOs that assist project-affected communities in lodging complaints with the Inspection Panel and CAO. These interviews are particularly useful for assessing the nature of NGO merit-screening and the types of capabilities they provide complainants.

Consistent with our expectations, we find that NGO involvement enhances the likelihood of project change and compensation made to project-affected communities, though it does not enhance the likelihood of communities receiving a formal acknowledgment of harm from the Bank. We also find that indigenous project-affected communities are more likely to receive a formal acknowledgment of harm and have projects changed, though they are no more likely to receive compensation than other complainants.

Our interviews provide evidence for both the selection and capabilities mechanisms. The NGO representatives confirm our expectation that NGOs screen complaints, limiting their support to complaints that they view as credibly asserting violations of social and environmental safeguard policies. Interviewees also emphasized the importance of their technical expertise in drafting successful complaints.

We conduct a mediation analysis to more thoroughly assess the importance of this technical expertise. We first estimate the effect of NGO involvement on the fulfillment of “complaint fundamentals”; that is, whether NGO involvement makes it more likely that a complaint includes the basic elements that we expect contribute to success. We then estimate the effect of complaint fundamentals to successful outcomes. We find that NGO involvement is a strong predictor of complaint fundamentals, but much of the effect of NGOs on complaint success occurs primarily through other channels—either through screening or through types of lobbying and assistance not reflected in the observable quality of the written complaint. Our interviewees underscored NGOs’ ability to apply public pressure on the World Bank with a view to influence proceedings before the Inspection Panel and CAO—an element of the capabilities mechanism which goes beyond technical expertise. NGOs thus capitalize on their expertise in information, leverage, and accountability politics to help deliver relief and redress to the complainants they support.

2 The Inspection Panel and CAO: Novel Quasi-Judicial Bodies for Enforcing Human Rights

In the 1990s, global civil society and donor governments pressured the World Bank to adopt and abide by a set of policies governing the execution of its projects abroad to prevent, mitigate, and provide redress for social and environmental impacts in developing countries (Clark, 2002; Mallaby, 2006; Shihata, 1994; Woods, 2000; Ziai, 2016). In 1993, the Inspection Panel was established to respond to complaints regarding projects funded through the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA). And, in 1999, the CAO was created to respond to similar complaints regarding projects funded through the International Finance Corporation (IFC) and guaranteed through the Multilateral Investment Guarantee Agency (MIGA).

The Inspection Panel and CAO represent important developments in international law. The Inspection Panel, in particular, was the first forum for private actors to hold IOs accountable for harms created by their operations. Previously, private citizens relied on their governments to promote their interests to IOs (Keck and Sikkink, 1998; Woods and Narkilar, 2001). The Inspection Panel has changed this dynamic, enabling citizen access to IOs (Hunter, 2003; Macdonald and Miller-Dawkins, 2015; Nanwani, 2014).

Despite this newly-developed formal access to IOs via the Inspection Panel and CAO, real access is limited (Buntaine, 2015). Worldwide knowledge of the bodies is low and the bodies, themselves, have failed to seek out project-affected communities and advertise their dispute resolution and compliance review functions (Accountability Counsel, 2015; Hunter, 2003). In addition, scholarship problematizes the Inspection Panel’s inability to propose or grant relief to project-affected communities independent of Bank Management (hereafter, Management) and the Board of Executive Directors (hereafter, the Board) (Carrasco and Guernsey, 2008; Schlemmer-Schulte, 2000). Indeed, the Inspection Panel is only intended to determine compliance or noncompliance with Bank policy, while the CAO may independently facilitate dispute resolution between the relevant parties as well as investigate noncompliance. Given a determination of noncompliance, the Inspection Panel cannot compel projects to be brought into compliance with Bank policy, whereas the CAO is required to supervise the implementation of compliance (Compliance Advisor/Ombudsman, 2013). In addition, the Inspection Panel can neither assure the implementation of remedial measures devised by Management and approved by the Board, nor guarantee that project-affected communities are satisfied with these measures—a criticism which has been raised in the context of other quasi-judicial institutions, such as truth commissions (Clark, 2002; Hayner, 2000). Nevertheless, as elaborated in the analysis, the work of both the Inspection Panel and CAO has led to changes in projects, including termination, compensation of project-affected communities, and punishment of host country governments, their partners, and contractors.¹

Despite a two-decades-long dialogue on the Inspection Panel and CAO’s relative merits and

¹For example, in the Uganda Transport Sector Development Project case (2014), the Government of Uganda provided compensation to survivors of sexual assault perpetrated by road workers contracted by the Ugandan National Road Authority (UNRA) and prosecuted those responsible. In turn, the World Bank withheld new lending to Uganda from 2016 onwards and “conduct[ed] a review of the country portfolio and work[ed] with the Ugandan authorities to address outstanding performance issues in the portfolio” (Inspection Panel, 2016). To be clear, this case is not included in the new data we introduce because it was still open at the conclusion of our data gathering endeavor.

deficits, scholarship has failed to investigate the universe of cases brought before the two bodies. As a consequence, scholars and practitioners have little insight into the Inspection Panel and CAO’s effectiveness and no clarity concerning factors which influence outcomes. Moreover, it remains unclear if global civil society and donor governments’ expectations have been met and the World Bank’s promises kept. This paper responds to this oversight in scholarship and practice.

Each of the major regional development banks² have attempted to replicate the Inspection Panel and CAO. Single-nation based development banks³ have followed suit. The proliferation of institutional “copies” elevates our interest in the “originals”. The development and collective work of these bodies may catalyze wholesale changes to IFIs’ policies and practices, as well as international administrative law, as previously mentioned. A crucial starting point for both social scientists and practitioners is, therefore, understanding the Inspection Panel and CAO’s performance over the past two decades—a metric against which we can discern improvements, stagnation, or regression, in terms of granting project-affected peoples relief and redress.

3 NGO Advocacy in the Complaint Process

We expect that NGO involvement in the complaint process increases the likelihood of complaint success. We focus on two potential mechanisms: selection, or the tendency to NGOs to only support claims that are of relatively high merit; and capabilities, or the technical capacity and advocacy clout that NGOs provide to the communities they support.

3.1 Selection Mechanism

We theorize that NGOs choose to participate in a complaint based on (1) merit review criteria, (2) assessment of the fit between the issues at stake and the NGO’s mission, and (3) predictions about public, media, and donor support for a case or community type.

First, given limited time and resources, NGOs must distinguish meritorious cases or causes from less- or non-meritorious ones and thereby utilize resources efficiently.⁴ This is true not only in the

²i.e., The Asian Development Bank (ADB), African Development Bank (AfDB), European Bank for Reconstruction and Development’s (EBRD), European Investment Bank (EIB), and Inter-American Development Bank’s (IDB).

³e.g., the Brazilian Development Bank, the Canadian Office of the Extractive Sector Corporate Social Responsibility, the Japan Bank for International Cooperation, and the U.S. Overseas Private Investment Corporation Office of Accountability

⁴There are both normative and instrumental dimensions to determining merit. NGOs must juggle the need to

context of the Inspection Panel and CAO but also in other sites of adjudication and policy making (Ron, Ramos and Rodgers, 2005). A critical element of merit review is assessing whether or not would-be complainants can reasonably make the case that they have suffered environmental or social harm produced by Bank policy violations. Since the effectiveness of NGOs relies on the accuracy and relevance of the information they furnish in policy making efforts (Barnett and Finnemore, 2004; Keck and Sikkink, 1998), finding and supporting project-affected communities with “good facts” is essential. This might involve, for example, NGOs supporting project-affected communities who raise issues for which there is a specific World Bank operational protocol, procedure, or performance standard, as both the harm and the remedy are clearly outlined by the Bank, itself. These include land acquisition and involuntary resettlement, resource efficiency and pollution prevention, and labor and working conditions. We interviewed the director of an international workers’ rights organization, who described to us how the organization first “determine[s] whether there are grounds to claim that *the actions violate the safeguards* that the institutions have adopted” before proceeding to support a complaint (Emphasis added).

In addition, some NGOs may only support project-affected communities’s complaints after conducting their own pilot investigation. One of our interviewees, Vladlena Martsynkevych, former regional director of the National Ecological Centre of Ukraine (NECU), reports that NECU collects information using open sources on persons harmed or likely to be harmed by Bank-funded development projects. The organization then contacts the relevant individuals/community via telephone, requesting supporting documents and other evidence of harm. After receiving this information, the organization then visits the site to confirm the accuracy of the claims and supporting evidence. Thus, it is likely that some of the cases that proceed to the Inspection Panel and CAO *without* NGO support do so because NGOs have investigated project-affected communities’ claims and determined that they are less meritorious.

Second, scholarship continues to find that NGOs may be motivated to pursue causes and campaigns that promote their “brand” and inspire public confidence or trust (Ron, Ramos and Rodgers, 2005). NGOs may, thus, concentrate their efforts on project-affected communities whose experienced harm corresponds to their organizational missions. For example, even though an environ-

pursue certain issues or causes with their ability to actually effect change and secure favorable outcomes for project-affected communities (Hendrix and Wong, 2014).

mental NGO could reasonably support a community which has been involuntarily resettled due to a Bank-funded land administration and management project, that NGO might turn down this potential client group in favor of a client group whose primary water source has been polluted by a Bank-funded hydraulic infrastructure project. The latter, unlike the former, would match the NGO's brand and be a potentially valuable addition to the NGO's portfolio of causes and campaigns certifying that it is the "go-to" organization for cases of this nature. We interviewed the president of a Latin American environmental NGO (ENGO) which supports project-affected communities before the Inspection Panel and CAO. This individual clarified that the NGO seeks out, rather than waits for, potential complainants. Specifically, this NGO pursues cases related to hydroelectric, fluvial ecosystem, and watershed projects. Thus, NGOs are both selective and mission-driven.

Third, NGOs may target cases with the potential to reach a high-profile—that is, cases in which communities which have been harmed by large Bank-funded projects, such as dams and resource extractive projects—as they are likely to garner the most public attention (Baur and Schmitz, 2012; Meernik et al., 2012; Mitchell and Schmitz, 2014). Supporting such causes may win NGOs not only media support but also donor support (Hill, Moore and Mukherjee, 2013; Ron, Ramos and Rodgers, 2005).

Given a successful outcome at the Inspection Panel and CAO, policy changes—at the levels of the Bank, host country governments, and firms—may be achieved and be a credit to the NGO's efforts (Buntaine, 2015; Hendrix and Wong, 2014). Relatedly, NGOs may select subjectively sympathetic complainants to support. For example, even though an indigenous' rights NGO may be able to represent a non-indigenous community which has been involuntarily resettled or whose cultural heritage sites have been damaged, this NGO might turn down this potential client group in favor of an indigenous client group facing similar harms.

To summarize, project-affected communities (1) whose experienced harm is documentable and for which Bank policy specifies remedial actions, (2) whose case specifics are congruent with NGO missions, and (3) who have the potential for public, media, and donor support should be not only more likely to be selected by NGOs but also more likely to gain favorable outcomes, such as project change and compensation.

3.2 Capabilities Mechanism

NGO-assisted cases may also be associated with successful outcomes due to NGOs’ (1) superior facility for framing and presenting complaints (complaint quality), (2) relative immunity from marginalization and silencing, and (3) ability of NGOs to apply pressure to the World Bank outside of the formal Inspection Panel/CAO process.

First, NGOs can offer technical expertise otherwise unavailable to project-affected communities (Uçarer, 2014). Project-affected communities—people who have been dispossessed of their lands and their livelihood, whose environments have been degraded, who have suffered physical integrity rights violations, and whose cultural heritage has been destroyed—are unlikely to possess the material, informational, language, and human resources to independently and successfully lodge a complaint against the World Bank and its state and non-state partners, whereas NGOs do possess these resources (Hahn and Holzscheiter, 2013; Islam and Morgan, 2011). NGOs can assist project-affected communities in clearly connecting the harms experienced with violations of World Bank operational policies, procedures, and performance standards—arguably the greatest barrier to complaint success (Uçarer, 2014). The president of the Latin American ENGO confirmed that NGOs offer technical expertise otherwise unavailable to project-affected communities, devoting resources so communities “understand the technical aspects of the projects and their impacts”.

What’s more, NGOs have established networks from which they may draw to assist project-affected communities. NECU representative, Vladlena Martsynkevych, shared with us that Danish colleagues working on a human rights court case in the Ukrainian courts, alerted NECU of an agribusiness project-affected village that could benefit from the organization’s assistance. NECU’s inquiry into the community led to the identification of communities in seven other villages affected by the same project.⁵ Martsynkevych contends that the complaint was successful because it involved so many communities which, of course, was only possible with NGO involvement.

Second, NGOs, unlike project-affected communities, are “repeat-players” (Galanter, 1974). While it may be easier to silence a vulnerable community, it is much more difficult to marginalize an important local, national, and/or international actor, such as an NGO. In addition, since NGOs often interface with the World Bank at the project, national, and/or international level, the Bank is

⁵The multi-community, multi-village complaint was handled through CAO dispute resolution and concluded with an agreement between Danosha, a subsidiary of The Axzon Group, and the affected communities.

more responsive to NGO concerns. Indeed, the Bank encourages NGO participation in the “project cycle,” including in project design and evaluation (Fox and Brown, 1998).

Third, as experts in information, leverage, and accountability politics, NGOs have been and are catalysts for change, including at the World Bank (Keck and Sikkink, 1998; Mitchell and Schmitz, 2014; Oestreich, 2007; Uçarer, 2014; Woods, 2000). NGO concern partly explains the World Bank’s adoption of a strategy for poverty reduction in the 1990s, which includes “the promotion of safety nets and targeted social programs to support those who fall through the cracks” (Fox and Brown, 1998, 493). Insofar as NGOs have successfully pressured the World Bank to modify its strategy for development, NGOs are likely to similarly pressure the Bank, via the Inspection Panel or CAO, for relief and redress for project-affected communities. Moreover, there is a long history of NGOs pressuring donor governments to withdraw support from the Board of Executive Directors (Lavelle, 2011), as well as influencing projects via suspension and cancellation, or mitigating harm and modifying subsequent policies (Fox and Brown, 1998).

Thus, our central theoretical expectation with respect to NGOs is simply that their involvement increases the likelihood of complaint success.

Hypothesis 1a *Complaints submitted by or with the assistance of NGOs are more likely to be successful.*

Because NGOs have a facility for framing and presenting complaints before IOs, such as the World Bank, we should expect complaints supported by NGOs to contain certain fundamental elements, e.g., to enumerate specific Bank policies which have been violated, to connect Bank policy violations with the harms alleged, and to include data providing support to complainants’ claims. Moreover, we expect that the effect of NGO involvement on complaint success is mediated by these complaint fundamentals—we expect that NGO-affiliated complaints are more successful because they contain these fundamental elements.

Hypothesis 1b *NGO-supported complaints are more likely to contain fundamental elements like citations to specific bank policies.*

Hypothesis 1c *The positive effect of NGO involvement on complaint success is mediated by complaint fundamentals.*

Hypothesis 1d *The positive effect of NGO involvement on complaint success also occurs through other channels, such as advocacy outside the formal Inspection Panel/CAO process.*

4 Protecting Indigenous Communities

We theorize that indigenous communities are more likely to gain favorable outcomes before the Inspection Panel and CAO for two main reasons. First, as a development finance organization, the World Bank has a sensitivity to indigenous peoples—an institutional culture which may be animated in proceedings before the Inspection Panel and CAO. Second, the World Bank has adopted a series of rules for itself that impose additional requirements on projects likely to affect indigenous peoples, and these rules are exceptionally difficult to comply with (Fox, 2000). These rules expand the scope of possible violations, and, by extension, increase the likelihood of meritorious complaints and favorable outcomes for complainants. While NGOs may assist indigenous project-affected communities in the complaints process and achieve success via the selection and capabilities mechanisms, we argue that the indigenous identity of complainants has an effect on outcomes independent of NGO involvement.

The World Bank was the first development finance organization to establish specific policies on indigenous peoples (Nanwani, 2014). Responding to criticism from global civil society, the Bank developed Operational Manual Statement 2.34 in 1982—a framework to: (1) recognize and protect indigenous people’s land rights; (2) provide essential services to indigenous peoples, including health and education; (3) support capacity building within government agencies to enforce indigenous peoples’ rights; and (4) address the needs of indigenous people in Bank-financed project sites. In 1987, the Bank began connecting its policy on indigenous peoples to new environmental policies, culminating in its Bank’s environmental assessment policy, Operational Policy (OP) 4.01, in 1989. OP 4.01 has a broad conception of “environment,” taking into account not only the natural environment, but also human health and safety, and social aspects (e.g., indigenous peoples, physical cultural heritage, involuntary resettlement) (World Bank, 2013a).

In the following years, the Bank hired a team of specialists in indigenous peoples rights and, coordinating with the International Labor Organization, adopted a new policy on indigenous peoples. This policy, Operational Directive 4.20, broadened the Bank’s definition of indigenous peoples, and

highlighted the importance of protecting their ancestral land ownership and consulting them at every stage of the project life-cycle (World Bank, 2011).

More recently adopted is OP 4.10, the World Bank’s hallmark policy on indigenous peoples, which holds the Bank to a higher standard when operating in lands and territories traditionally owned, customarily used, and/or occupied by indigenous peoples. Bank-funded projects operating in these contexts require, among other things: (1) a rigorous social assessment, (2) a culturally appropriate community consultation/consensus evaluation, (3) creation and disclosure of an Indigenous Peoples Plan or Indigenous Peoples Planning Framework, (4) equitable sharing of project-related profits, and (5) identification of alternative project designs which avoid or mitigate harm, including physical relocation of communities (World Bank, 2013*b*).

Collectively, these policies place significantly more stringent demands on the bank when engaging with indigenous populations. All things equal, it should be more difficult for Bank-funded projects to meet these elevated standards which are applied *in addition to* all others (Fox, 2000). Thus, we expect complaints submitted by indigenous communities to be more successful, both because the stringency of policy in this area makes violations more likely, and because there exists a more explicit framework in which indigenous communities may couch their complaints and gain relief and redress.

Hypothesis 2 *Complaints submitted by or on behalf of indigenous communities are more likely to be successful.*

5 Research Design and A New Dataset

The two core hypotheses of this paper—that complaints supported by NGOs and complaints involving indigenous communities are more likely to achieve favorable outcomes—are tested quantitatively using a new dataset collected for this paper, which covers the full universe of cases brought before the Inspection Panel and CAO between their founding and May 2017, a total of 239 cases.⁶ The new quantitative data collected for this project includes nearly 100 variables covering the (1) characteristics of the project under scrutiny, (2) characteristics of the complainants, (3) complaint

⁶Our data include cases deemed ineligible either at the time of filing or following initial investigation. Because of our focus on complaint outcomes, we include only cases concluded by May 2017.

fundamentals, (4) nature of the alleged harms and identity of the perpetrators, (5) progress of the complaint through the Inspection Panel and CAO processes, and (6) final outcomes of the complaint. Detailed descriptions and summary statistics for all variables used in the analysis are provided in the online appendix.

To evaluate our hypotheses, we use information on the groups bringing complaints (i.e. data on NGO involvement and indigenous communities) to predict several different types of complaint success, notably harm acknowledgment, project change, and compensation, while controlling for a range of potentially confounding factors, like the nature of the project and the identity of the alleged perpetrators. We then use a combination of quantitative and qualitative evidence to assess the relative importance of the screening and capabilities mechanisms in explaining the positive effect of NGO involvement that we observe. Quantitatively, we evaluate whether NGO involvement leads to greater complaint fundamentals. Qualitatively, we draw on a series of elite interviews conducted with NGOs that support Inspection Panel and CAO complaints to establish whether or not these NGOs screen cases for merit before assisting with complaint filing.

In addition to allowing us to evaluate our hypotheses, the new data we introduce create value simply by providing a first-ever comprehensive description of the performance of the Inspection Panel and CAO. The World Bank created the Inspection Panel and CAO in response to pressure from global civil society and donor governments to create a framework and policies for mitigating social and environmental impacts in developing countries and to provide relief communities when said policies were violated. In the following section, we provide descriptive statistics that illuminate these central issues, specifically what types of complaints are lodged and what types of outcomes complainants secure. As more and more development finance institutions attempt to replicate the Inspection Panel and CAO, it is crucial that we gain a comprehensive and accurate picture of the Inspection Panel and CAO’s performance—against which we can determine gains and losses associated with institutional replication.

5.1 Complaint Success

Complaint success captured by three variables: *harm acknowledged*, *project change*, and *compensation*. *Harm acknowledged* refers to the Inspection Panel or CAO’s formal acknowledgment of project-related harm suffered by complainants. While harm acknowledgement is a minimalist form

of success, its delivery by a formal authority can be an important part of the healing process for survivors of human rights violations and other harms (e.g. Hayner, 2000, 135-140).

Project change captures changes to projects that are mandated in response to complaints, such as the introduction of additional environmental safeguards and monitoring. *Project change* also includes project termination.

Compensation includes monetary and non-monetary reparations (e.g., land parcels for involuntarily resettled communities) made to project-affected communities by the Bank or by the host country government at the request or instruction of the Bank. *Compensation* takes a value of 1 only if compensation is promised in response to a complaint and that compensation would not have otherwise been forthcoming. Sometimes this occurs when compensation is added to a project where it had not been previously planned, and sometimes this occurs when a complaint forces payment of planned compensation that was, for some reason, withheld prior to the complaint.

5.2 NGO Involvement and Indigenous Communities

NGO involvement is a binary variable that captures whether at least one NGO filed or signed the initial complaint made to the Inspection Panel or CAO. *Indigenous* takes a value of 1 if at least one of the filers is an indigenous community.

5.3 Complaint Fundamentals

We estimate a latent variable, *complaint fundamentals*, to capture fulfillment of seven items that we expect make complaint success more likely: (1) raw data, including maps, (2) personal testimony by project-affected persons, (3) petitions, (4) typed complaints, (5) complaints written in English, (6) references to specific Bank operational protocols, procedures, and/or performance standards that complainants claim has been violated, and (7) a description of the link between the alleged Bank policy violation and the harm suffered by the community or individuals bringing the complaint. The latent variable model allows us to estimate complaint fundamentals even for observations missing one or more of our indicator variables, and allow us to estimate both the value of the latent trait and the uncertainty of that estimate. Summary statistics for variables used to estimate *complaint fundamentals*, the latent variable model’s assumptions, and information on item difficulty and discrimination parameters are provided in the online appendix.

5.4 Descriptive Statistics: Assessing the Big Picture

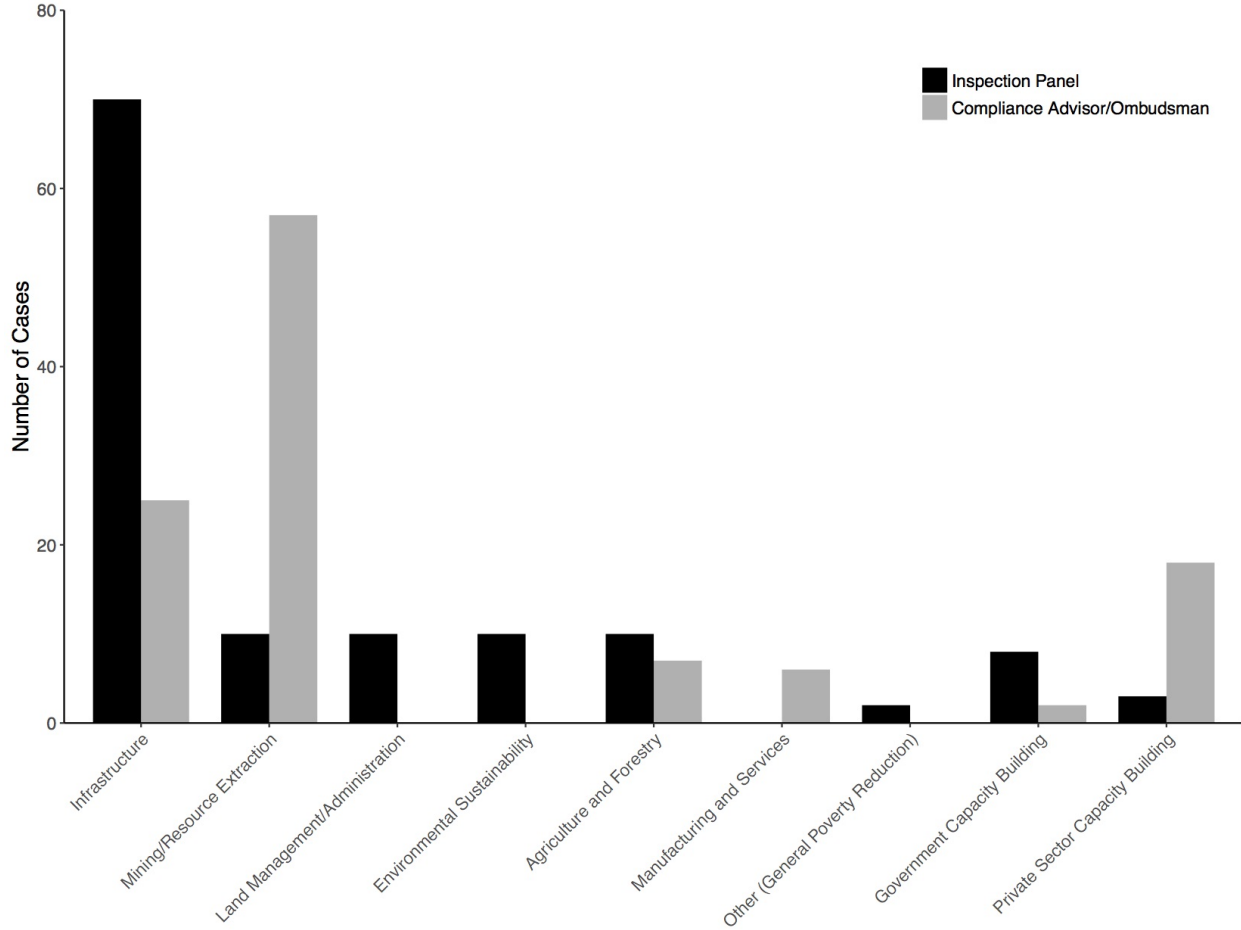
The distribution of CAO cases by geographic location and project and issue type provide a sense of where the Inspection Panel and CAO work and the type of cases they hear. Figure 1, shows that, as one would expect given the distribution of World Bank-funded projects, complaints are concentrated in the global South, with India, Peru, Argentina, Kenya, and Uganda as the top five origin sites.

Figure 1: Geographical Spread of Inspection Panel and CAO Cases



As reported in Figure 2, below, two project types dwarf all others in terms of complaints filed with the Inspection Panel and CAO. Infrastructure projects trigger 56% of Inspection Panel complaints and 22% of CAO complaints whereas mining or resource extractive projects trigger 49.5% of CAO complaints and 8% of Inspection Panel cases.

Figure 2: Projects Triggering Inspection Panel and CAO Complaints



As reported in Figure 3, environmental damage is the most-raised issue in both the Inspection Panel and CAO. Economic damage takes second position in both bodies, and labor rights violations take third position in the Inspection Panel and involuntary resettlement in the CAO. Physical integrity rights violations, which include crimes like torture and detention, are alleged less frequently. This broadly comports with the qualitative literature on the Inspection Panel and CAO, which has focused primarily (though not exclusively) on environmental damage and forced displacement (Clark, 2002; Fox, 2000; Rich, 1994; Webber and McDonald, 2004).

Figure 3: Primary Issues Raised

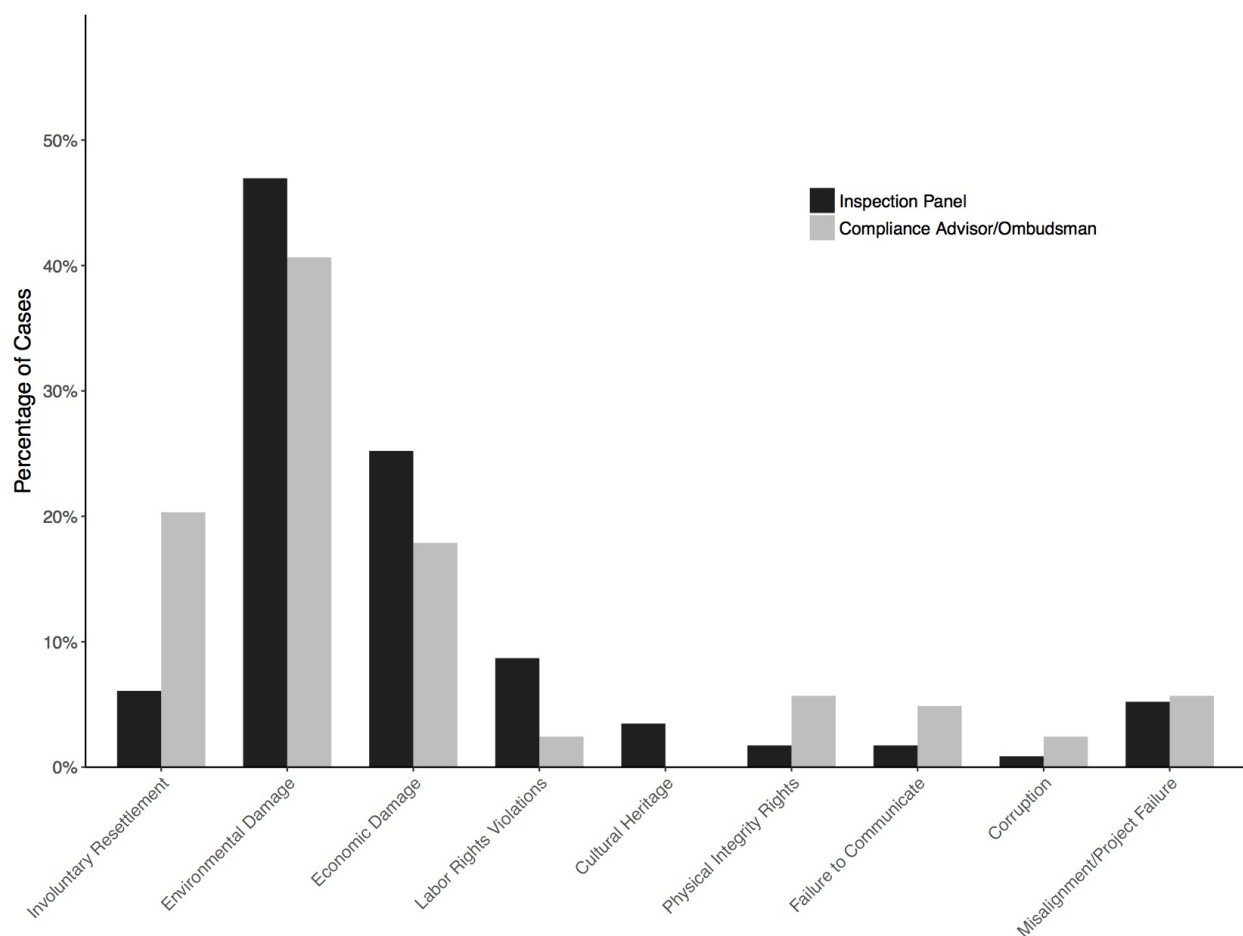


Figure 4 describes the overall effectiveness of the Inspection Panel and CAO in delivering specific types of remedies. Notably, 42% of Inspection Panel cases and 61% of CAO cases result in some type of positive outcome for complainants. With respect to differences between the Inspection Panel and CAO, a greater percentage of CAO cases result in a formal acknowledgment of harm, a determination of Bank noncompliance, halted projects, and changed projects, while a greater percentage of Inspection Panel cases result in compensation paid to project-affected communities. We believe this is primarily due to the Inspection Panel handling more involuntary resettlement cases than the CAO, as such a violation requires compensation.⁷

While the Inspection Panel and CAO complaints in our dataset do not yet offer project-affected communities justice in the form of perpetrator punishment, they do offer some form of relief to a

⁷Involuntary resettlement is raised in 25 complaints to the Inspection Panel compared to 7 complaints in the CAO.

high percentage of complainants. In many cases this relief is not trivial, with projects revised or halted and/or compensation paid. In short, these institutions are not toothless and they do not appear reluctant to judge in favor of communities bringing complaints against the Bank.

Figure 4: Success at the Inspection Panel and CAO

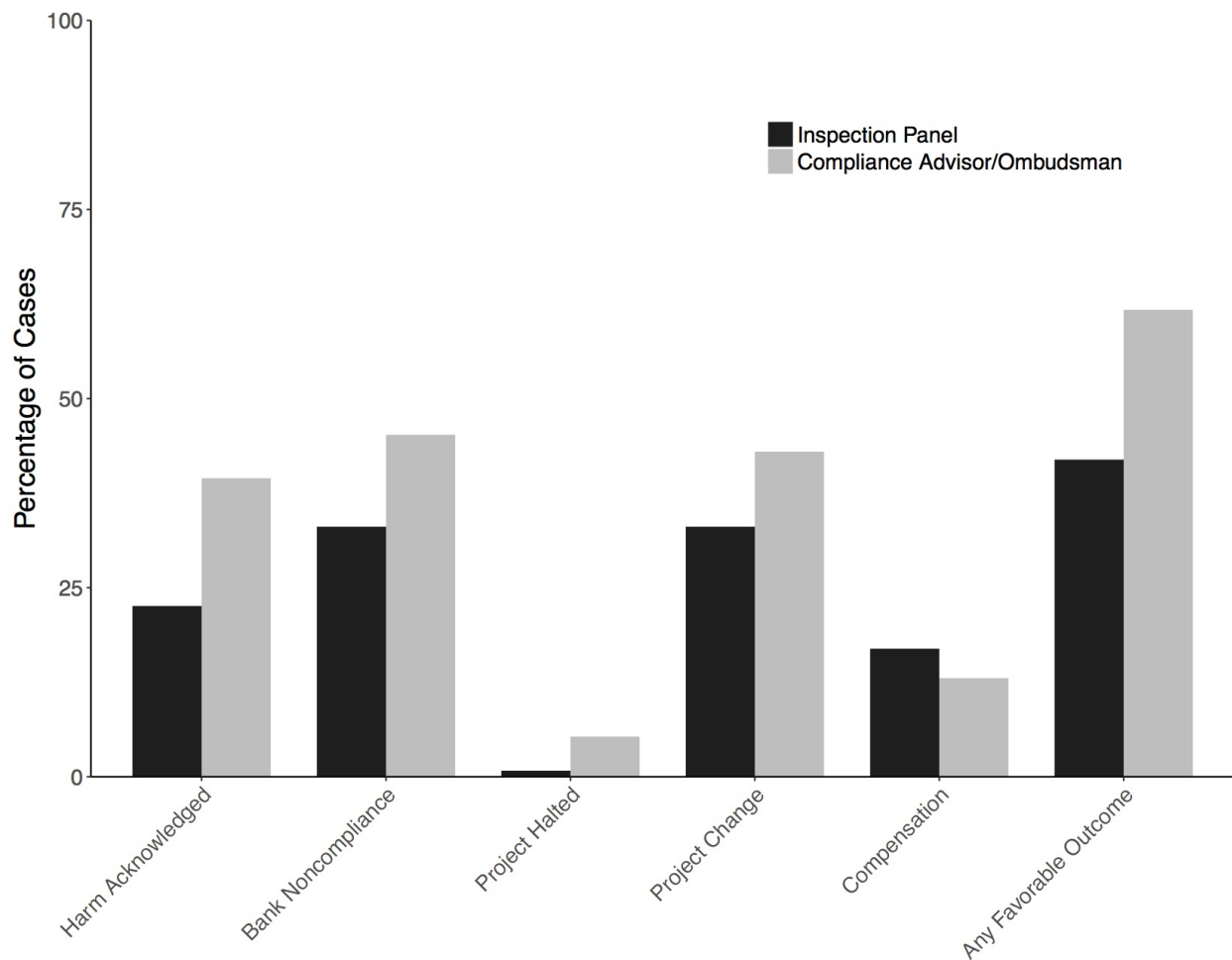
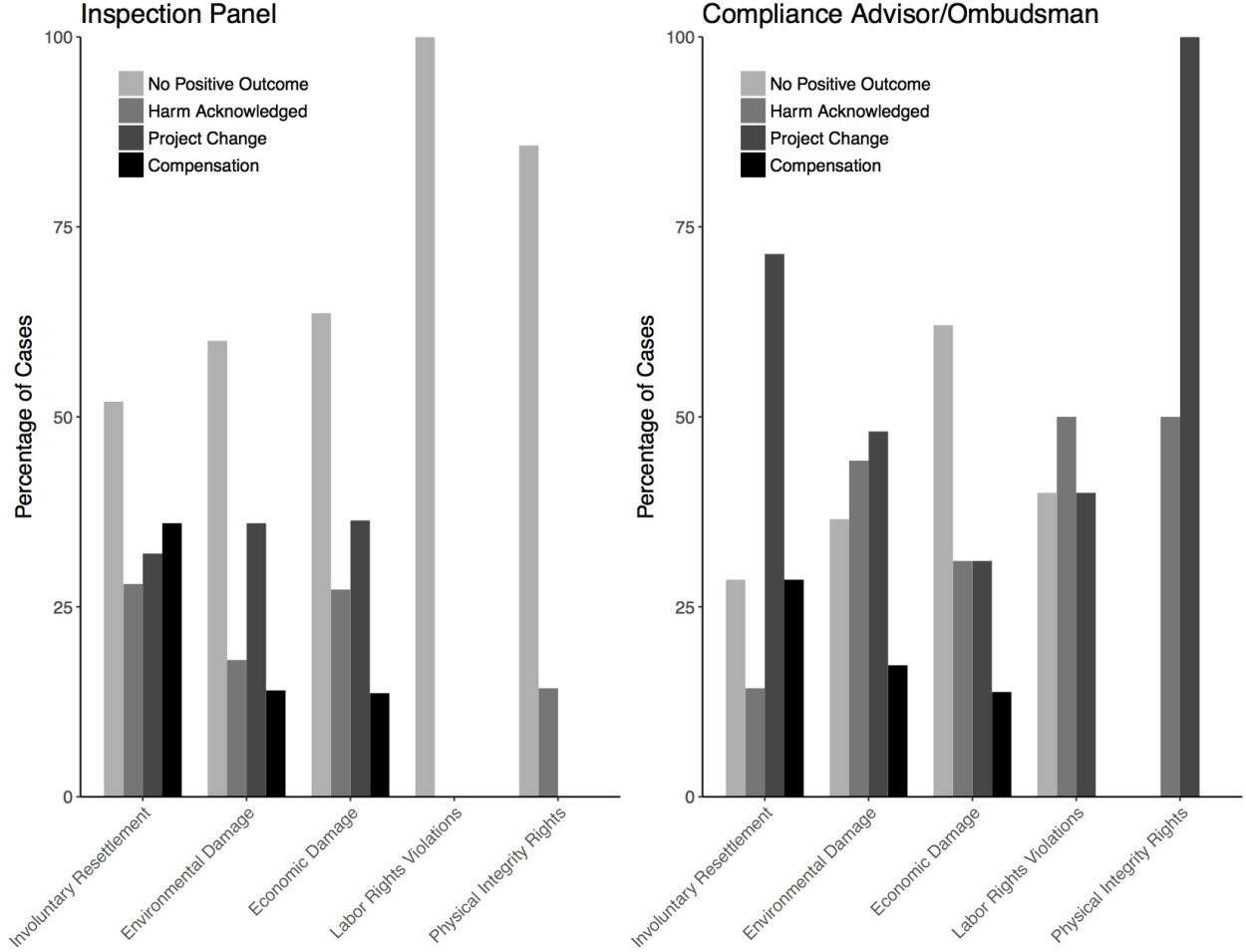


Figure 5 shows a more granular distribution of outcomes across issue areas. In both Inspection Panel and CAO cases, compensation is most likely in cases alleging involuntary resettlement, while it is sometimes also offered in response to claims of economic or environmental damage. Physical integrity rights violations are the most severe category of alleged violation, however, these cases are also few in number, making it difficult to generalize about them.⁸

⁸Physical integrity rights violations constitute the primary alleged harm in only 9 complaints and are among the top three issues raised in only 35 complaints.

Figure 5: Outcomes by Primary Issue Raised



6 Analysis

We theorize that complaints are more likely to be successful when an NGO (H1a) and/or an indigenous community (H2) is involved. We evaluate these hypotheses using using *NGO involvement* and *indigenous* to predict three different measures of complaint success. Models 1 and 2 in Table 1, below, present the results of logit regressions with *harm acknowledged* as the dependent variable. Models 3 and 4 predict *project changed*, while Models 5 and 6 predict *compensation*. In each model we control for a range of factors that may be causally related to complaint success and to either NGO or indigenous involvement, including project characteristics, the issues raised by the complaint, and the region in which the alleged violation took place.⁹

Consistent with H1a, find that NGO involvement is a positive predictor of all three measures

⁹Dummy variables are included for each region with The Americas as the omitted region.

of complaint success, but this effect is only statistically significant ($p < 0.05$) with respect to the more substantively important outcomes, i.e. with respect to *project changed* and *compensation*, and not with respect to *harm acknowledged*. NGO involvement increases the probability of achieving project change from 32% to 47%, while more than tripling the probability of compensation from 7.5% to 25%. The estimated effect on harm acknowledgement is smaller but still non-trivial, rising from 28% without NGO involvement to 37% with NGO involvement.¹⁰

Consistent with H2, we also estimate a strong positive effect for the involvement of indigenous communities; this effect is statistically significant ($p < 0.05$) with respect to *harm acknowledged* and *project changed*, but not with respect to *compensation*. Substantively, the predicted probability of gaining a formal acknowledgment of harm for an indigenous community is roughly double that on a non-indigenous community, 46% instead of 26%. The difference is similar with respect to project change: the predicted probability for an indigenous community achieving project change is 64%, compared to 30% for non-indigenous communities. Finally, the estimated probability of compensation rises to 23% with indigenous involvement compared to 13% for non-indigenous.

¹⁰Substantive effects are calculated based on Models 1, 3, and 5.

Table 1: NGO Involvement, Indigenous Complaints, and Outcomes

| | DV = Harm Acknowledged | | DV = Project Changed | | DV = Compensation | |
|--------------------------------------|------------------------|-------------------------------|----------------------|---------------------|--------------------|--------------------|
| | (1) | (2) | (3) | (4) | (5) | (6) |
| Complainant Characteristics | | | | | | |
| NGO Involvement | 0.466 (0.343) | 0.473 (0.347) | 0.752* (0.366) | 0.771* (0.376) | 1.660* (0.658) | 2.012** (0.735) |
| Indigenous | 1.189** (0.460) | 0.997* (0.478) | 1.442** (0.436) | 1.434** (0.460) | 0.161 (0.482) | 0.758 (0.612) |
| Project Characteristics | | | | | | |
| Infrastructure | 0.0684 (0.398) | 0.161 (0.405) | 0.442 (0.419) | 0.444 (0.435) | 0.0508 (0.593) | -0.172 (0.584) |
| Mining/Resource Extraction | -0.279 (0.441) | 0.0269 (0.498) | 0.413 (0.479) | 0.446 (0.528) | 0.0228 (0.664) | -0.681 (0.795) |
| Environmental Risk | 0.275 (0.384) | 0.292 (0.376) | 0.0840 (0.339) | 0.107 (0.340) | 0.188 (0.473) | 0.276 (0.531) |
| Bank Commitment (log) | -0.161 (0.147) | -0.161 (0.164) | -0.439** (0.135) | -0.427** (0.135) | 0.149 (0.171) | 0.144 (0.167) |
| CAO | 0.918* (0.370) | 0.832 ⁺ (0.429) | 0.382 (0.350) | 0.309 (0.395) | -0.0121 (0.537) | -0.173 (0.596) |
| Alleged Harms and Perpetrators | | | | | | |
| Involuntary Resettlement | -0.282 (0.476) | -0.251 (0.472) | 0.310 (0.459) | 0.321 (0.456) | 1.858** (0.599) | 1.960** (0.658) |
| Environmental Damage | 0.191 (0.372) | 0.127 (0.368) | 0.148 (0.414) | 0.144 (0.422) | 0.419 (0.490) | 0.681 (0.477) |
| Economic Damage | -0.445 (0.340) | -0.381 (0.338) | 0.0996 (0.351) | 0.126 (0.351) | 0.803 (0.493) | 0.672 (0.492) |
| Labor Rights Violations | 0.0298 (0.697) | 0.107 (0.666) | 0.148 (0.691) | 0.0815 (0.676) | 1.477* (0.752) | 1.169 (0.714) |
| Physical Integrity Rights Violations | -0.276 (0.509) | -0.315 (0.529) | -0.912+ (0.486) | -0.927+ (0.489) | -1.398+ (0.844) | -1.406 (0.859) |
| Bank is Alleged Perpetrator | | 0.00278 (0.437) | | -0.181 (0.409) | | -1.154* (0.491) |
| Region | | | | | | |
| Africa and Middle East | | -0.573 (0.491) | | -0.0827 (0.475) | | 1.838* (0.754) |
| Asia | | -0.123 (0.415) | | -0.159 (0.420) | | 1.617* (0.745) |
| Europe | | -0.674 (0.578) | | -0.314 (0.460) | | 1.655* (0.802) |
| Constant | 1.293 (2.702) | 1.527 (3.040) | 6.139* (2.435) | 6.161* (2.534) | -6.989* (3.192) | -7.742* (3.481) |
| Observations | 220 | 220 | 220 | 220 | 221 | 221 |

All models report clustered standard errors.

+ $p < 0.10$, * $p < 0.05$, ** $p < .01$

Among the control variables, we estimate several noteworthy effects. Most notably, compensation is much more likely to be granted in complaints alleging involuntary resettlement. This makes sense given that World Bank policies mandate that individuals displaced by projects be compensated. When individuals or communities are displaced and compensation is not forthcoming, the Inspection Panel and CAO appear to be relatively effective at rectifying the situation. However, we also estimate that, when the Bank itself is the alleged perpetrator, compensation is less likely.

We estimate that the larger the Bank’s financial commitment to a project, the less likely the project will be changed. Larger projects imply greater adjustment costs than smaller projects, making it reasonable to expect that the Inspection Panel and CAO may be more reluctant to mandate changing or halting these projects. We also find that when a complaint alleges physical integrity rights violations, project change is less likely. While initially startling, project change may be less likely when physical integrity rights are violated because these harms are much less likely the result of actions or omissions by the Bank than those of other actors, such as borrower governments and firms. Thus, projects are less likely to be changed in response to these complaints because these violations do not arise directly from the nature of the project itself, but rather from the unlawful actions of actors related to the project. Actions by the World Bank to alter the scope or nature of the project itself is unlikely to prevent these abuses from occurring.

6.1 Drivers of NGO Success: Selection and Capabilities

The capabilities mechanism suggests that NGOs increase complaint success via professional expertise and organizational capacity. In contrast, the selection mechanism suggests that NGO involvement is associated with complaint success, at least in part, because NGOs are more likely to support complaints they consider promising. The interviews we conducted provide evidence that both the capabilities and selection mechanisms are at play. We find that NGO representatives are very up-front about the screening that takes place. Not surprisingly, NGOs pursue and support cases that they believe are meritorious. NGOs also believe the technical capabilities they provide are important. The following section examines this empirically.

6.1.1 Complaint Fundamentals

We evaluate the impacts of NGO capabilities by estimating the effect of NGO involvement on “complaint fundamentals,” or the observable characteristics of complaints that we expect influence the prospects of complaint success. If NGOs provide important capabilities when they support a complaint, one observable implication is that NGO-supported complaints should contain more of these fundamental elements.

Figure 6 depicts fulfillment of four complaint fundamentals, in cases with and without NGO involvement. The relationship here is striking: across each dimension, NGO-supported complaints eclipse all others. The differences are particularly stark with respect to the inclusion of raw data and citing specific World Bank policies. In the absence of NGOs, complaint fundamentals are markedly lower. The results reported in Figure 6 are consistent with, though not proof of, NGOs’ assertion that the resources they provide are critical for effectively contesting development projects.

Figure 6: NGO Involvement and Complaint Fundamentals

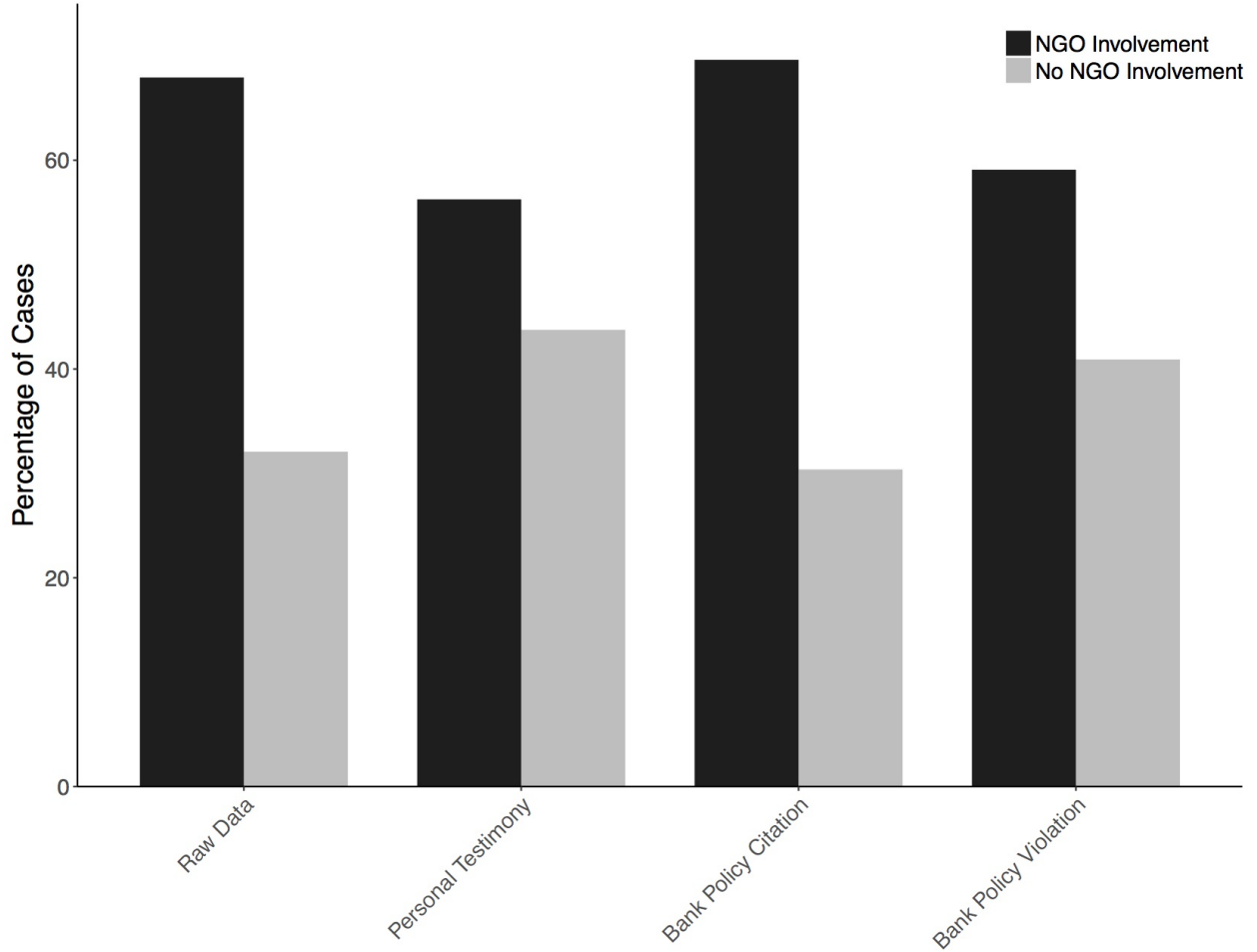


Table 2 evaluates whether NGO involvement is a strong predictor of complaint fundamentals once other factors are controlled for. Consistent with the descriptive pattern shown in Figure 6 we estimate a positive relationship between NGO involvement and complaint fundamentals, but this relationship is not statistically significant ($p < 0.05$). In contrast, we find that indigenous communities and projects with a high environmental risk (i.e. high expected environmental impact) are positive and statistically significant predictors of complaint fundamentals ($p < 0.05$).

Figure 7 presents the results of the mediation analysis, namely estimates of the direct effects of NGO involvement on outcomes of success and the indirect effect of NGO involvement mediated through complaint fundamentals. We do not find support for a mediated effect of NGO involvement on success before the Inspection Panel and CAO. The estimated average mediated effect (ACME) is positive for each success outcome; however, the effects are small and are not statistically significant.

Table 2: NGO Involvement and Complaint Fundamentals

| | (1) | (2) |
|--------------------------------------|---------------------|-------------------------------|
| NGO Involvement | 0.123 (0.102) | 0.198 ⁺ (0.113) |
| Indigenous | 0.243* (0.100) | 0.265* (0.103) |
| Infrastructure | -0.119 (0.135) | -0.183 (0.149) |
| Mining/Resource Extraction | 0.112 (0.164) | 0.0363 (0.174) |
| High Expected Environmental Impact | 0.311** (0.119) | 0.341* (0.143) |
| CAO | -0.435** (0.122) | -0.520** (0.131) |
| Involuntary Resettlement | 0.0384 (0.114) | 0.0196 (0.139) |
| Environmental Damage | 0.184 (0.125) | 0.244 ⁺ (0.140) |
| Bank Commitment (log) | | -0.0210 (0.0458) |
| Economic Damage | | -0.0275 (0.117) |
| Labor Rights Violations | | 0.333* (0.159) |
| Physical Integrity Rights Violations | | 0.0567 (0.133) |
| Constant | -0.264* (0.124) | 0.103 (0.830) |
| Observations | 150 | 134 |

Standard errors in parentheses

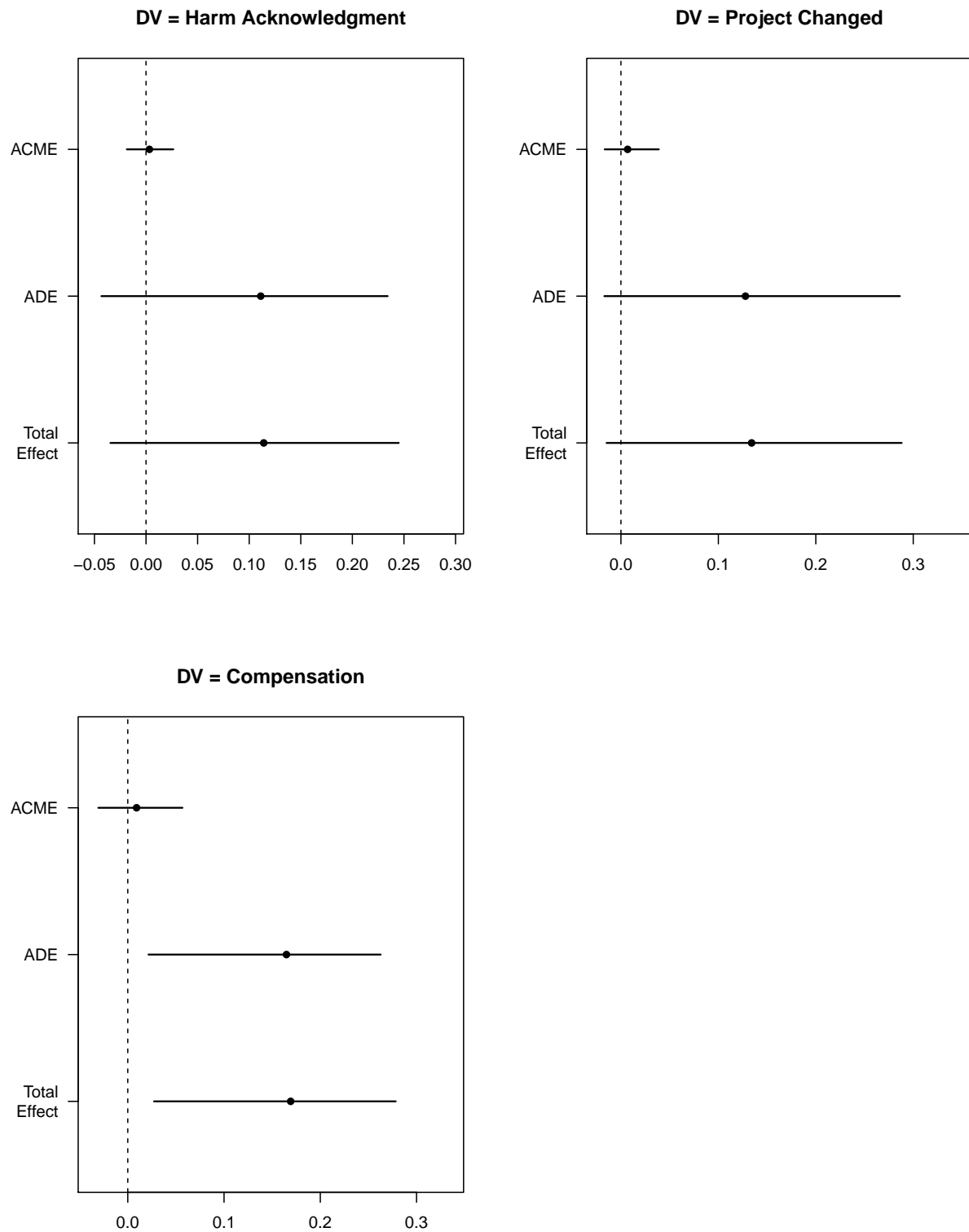
All models report clustered standard errors.

⁺ $p < 0.10$, * $p < 0.05$, ** $p < .01$

In contrast, the estimated direct effects are much larger, albeit only statistically significant with respect to compensation.

Taken together these results show that, while NGO involvement is likely positively related to complaint fundamentals, these fundamentals do not account for most of the effect that NGOs have on complaint success. The “direct” effect of NGO involvement that we estimate includes all channels other than complaint fundamentals, including selection of more meritorious complaints and advocacy outside of the formal Inspection Panel and CAO processes, such as public shaming. These direct effects account for most of the effect of NGOs on complaint outcomes.

Figure 7: Maximum effects of NGO Involvement (Mediated through Complaint Fundamentals) on Harm Acknowledgment, Project Change, and Compensation



To better understand the components of the direct effect of NGO involvement on complaint success, we turn to the results of our elite interviews. Consistent with the operation of the selection mechanism, respondents at NGOs consistently reported that they screened prospective cases for merit before agreeing to support a complaint. They also described a range of technical abilities they bring to the table, consistent with our expectation that NGO involvement increases complaint quality. Most interesting, perhaps, is that NGOs also spoke of their ability to help communities achieve complaint success through avenues other than simply enhancing complaint quality.

Several NGO representatives highlighted NGOs' ability to apply public pressure on the World Bank, which they believe compels the Inspection Panel and CAO to take certain complaints more seriously, even though the Inspection Panel and CAO are technically independent of the rest of the Bank. To give two examples, a representative from a workers' rights organization reports,

"I think unfortunately maybe they do pay more attention when it has some international attention and attention from an organization [...] which has some international clout and reputation [...] even if we were not the primary sponsor of the complaint".

The president of the Latin American ENGO highlighted the organization's pursuit of high-profile cases in which it can lobby the World Bank directly and indirectly, via donor countries "where there was interest to lobby against the project".

Taken together with the results of the mediation analysis, our interviews suggest that the effect of NGOs on complaint success goes well beyond simply supporting communities in bringing higher quality complaints. As future work seeks to understand the mechanisms driving NGO success (and dissecting what types of NGOs make the most effective community advocates), it will be necessary to look well beyond the details of the complaint documents submitted.

7 Implications

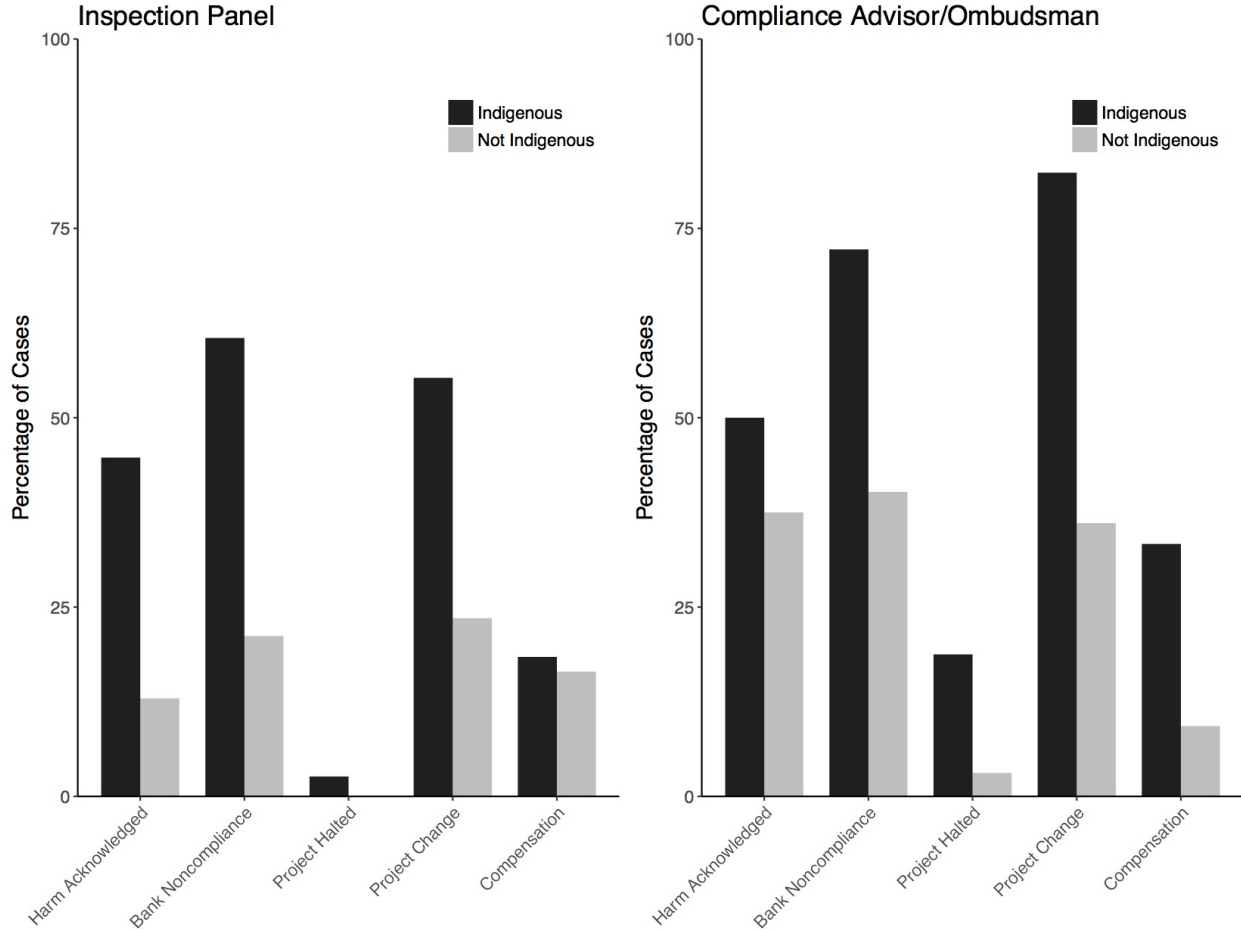
Our results offer three main implications. First, quasi-judicial bodies deliver important outcomes to many complainants, such as protection of vulnerable groups from human rights violations, and provide relief and redress for harms sustained. The relatively high rate of complainant success that we observe in our data suggests that the Inspection Panel and CAO may be the most effective venue for communities to seek relief in some types of cases, even when other venues are available.

Our research motivates inquiry into other quasi-judicial bodies that seek to protect human rights and promote good governance, like the Integrity Vice Presidency—the World Bank’s watchdog for corruption in IDA- and IBRD-funded projects—as well as dispute resolution and compliance review institutions in regional and national development banks. While these venues receive less attention than formal courts, such as the European Court of Human Rights, these quasi-judicial bodies may be more important in providing substantive relief to victims than previously realized.

Second, NGO support is closely associated with success at the Inspection Panel and CAO. While some of the positive relationship we observe between NGO involvement and complaint success can be attributed to NGOs screening cases on merit, we show that NGO complaints generally score higher on complaint fundamentals. We also offer qualitative evidence that NGOs provide advocacy support to complainants outside of the formal Inspection Panel/CAO processes, which may also have an effect. Reassuringly, we do not find evidence that less-professional complaints have lower success rates, suggesting that these bodies are willing to accommodate low-capacity complainants. However, the high correlation between NGO involvement and complaint success suggests that NGOs may, nonetheless, be necessary for the Inspection Panel and CAO to provide effective relief to communities.

Third, special protections for vulnerable groups, such as indigenous peoples, seem to be effective. Figure 8 summarizes successful outcomes by indigenous/non-indigenous complainants. The relationship is visually unmistakable (and supported by the regression analysis in Table 1): across every outcome, indigenous complaint success exceeds non-indigenous complaint success. This suggests that, when accountability mechanisms like the Inspection Panel and CAO are in place, vulnerable communities who receive additional formal protection in the formal rules also receive stronger protection in practice.

Figure 8: Outcomes by Indigenous Complainants



8 Conclusion

Since their creation in the 1990s, the Inspection Panel and Compliance Advisor/Ombudsman have adjudicated nearly 250 human rights complaints in more than 60 countries. During this period, development finance has witnessed the proliferation of analogous dispute resolution and compliance review institutions. Inspection Panel and CAO cases focus predominantly on three issue areas: environmental damage, economic damage, and involuntary resettlement. Thus, they address issues of serious and substantive concern to project-affected communities, meeting global civil society and donor countries' stated goals. Moreover, we show that these bodies are not toothless: More than a third of complaints result in the alteration or abandonment of the project in question, and 15% of complaints result in compensation for project-affected communities.

This paper offers the first comprehensive analysis of the operation and effectiveness of devel-

opment finance institutions' accountability mechanisms. By disaggregating Inspection Panel and CAO cases into their constituent parts, we are able to examine the ways in which factors such as NGO involvement in the complaint process, the individual harms raised in complaints, project type and size, etc. affect outcomes of interest, notably the Bank's acknowledgment of harm, changes to or termination of projects, and compensation of project-affected communities.

We theorized that complaints are more likely to be successful when they are supported by an NGO and when an indigenous community is among the filers. In our regression analysis, we find support for both of these expectations. In a more detailed analysis, we then unpacked and clarified the mechanisms through which NGO involvement affects complaint success. We find evidence that NGO involvement leads to complaints scoring higher on fundamentals, but also that NGOs screen complaints, seeking to support those they estimate meritorious.

Much remains to be accomplished in this research area. In particular, our research provides a benchmark for evaluating gains and losses associated with institutional replication of the Inspection Panel and CAO. Do these institutional copies function similarly to the originals on which they are modeled? Additionally, do successful cases enhance the security of human rights more broadly conceived, either by empowering the community or signaling the government that accountability is possible? Finally, what are the effects of accountability mechanisms on the IFIs which created them? The interviewee representing the workers rights organization has found partnerships between NGOs, within and without Inspection Panel and CAO complaints, useful for "improv[ing] language in the safeguards and implementation procedures". When we consider the universe of venues through which individuals and communities may seek justice for human rights violations and other harms, *and* change the landscape of development finance and international law, the Inspection Panel and CAO deserve to be discussed as serious and effective, if still flawed, institutions.

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A Appendix

A.1 The Human Rights Enforcement at the World Bank Dataset

The Human Rights Enforcement at the World Bank Dataset includes nearly 100 variables capturing the (1) characteristics of the relevant World Bank project, (2) characteristics of the complainants, (3) complaint fundamentals, (4) nature of the alleged harms and identity of the perpetrators, (5) complaint progress through the Inspection Panel and CAO processes, and (6) final outcomes of the complaint.

Characteristics of the project captured include project type and size, the identity of the World Bank funding institution (e.g., IBRD, IFC), and the expected environmental impact. *Characteristics of the complainants* include whether or not (1) the complaint is filed by or on behalf of the project-affected community, (2) the community is an indigenous group, and (3) domestic and/or foreign NGOs are engaged in the complaint process. *Completeness of the complaint* (complaint fundamentals) pertain to the inclusion of data and maps, personal testimony from project-affected individuals, or petitions, the mention of specific Bank operational protocols, procedures, and performance standards, and the number of documents filed. *Alleged harms* and *perpetrators* specify the issues/harms raised by the complainants (e.g, involuntary resettlement, environmental damage) and the actors alleged to have perpetrated those harms (e.g. the World Bank, itself, host country governments, and/or firms). *Process* details whether or not: (1) dispute resolution was attempted and if it succeeded, (2) a compliance review was undertaken, and (3) the Inspection Panel or CAO determined project noncompliance with Bank policy. Finally, *outcomes* catalogs whether or not a complaint concluded with a formal acknowledgment of harm, project change, including termination, and compensation made to project-affected communities. Summary statistics for variable used in the main regression analysis are given in Table [A1](#).

Table A1: Summary Statistics

| Variable | Mean | St. Dev. | Min. | Max | <i>N</i> |
|--------------------------------------|----------|----------|----------|----------|----------|
| Complainant Characteristics | | | | | |
| NGO Involvement | .5271967 | .5003076 | 0 | 1 | 239 |
| Indigenous | .2343096 | .4244555 | 0 | 1 | 239 |
| Project Characteristics | | | | | |
| Infrastructure | .3974895 | .4904058 | 0 | 1 | 239 |
| Mining/Resource Extraction | .2803347 | .4501054 | 0 | 1 | 239 |
| High Expected Environmental Impact | .4728033 | .5003076 | 0 | 1 | 239 |
| Bank Commitment (log) | 18.20233 | 1.399503 | 11.69279 | 22.04502 | 221 |
| CAO | .4811715 | .5006939 | 0 | 1 | 239 |
| Issues Raised | | | | | |
| Involuntary Resettlement | .2468619 | .4320906 | 0 | 1 | 239 |
| Environmental Damage | .665272 | .4728856 | 0 | 1 | 239 |
| Economic Damage | .6276151 | .4844547 | 0 | 1 | 239 |
| Labor Rights Violations | .0711297 | .2575808 | 0 | 1 | 239 |
| Physical Integrity Rights Violations | .1464435 | .3542923 | 0 | 1 | 239 |
| Bank is Alleged Perpetrator | .6485356 | .4784296 | 0 | 1 | 239 |
| Region | | | | | |
| Africa and Middle East | .2468619 | .4320906 | 0 | 1 | 239 |
| Asia | .2677824 | .4437329 | 0 | 1 | 239 |
| Europe | .1715481 | .3777784 | 0 | 1 | 239 |

A.2 Latent Variable

We estimate a latent variable, *complaint fundamentals*, using seven variables from our data which together constitute what we consider the basic elements of a successful complaint: (1) raw data, (2) personal testimony, (3) petitions, (4) typed complaints, (5) complaints written in English, (6) citations to bank policy, and (7) links between alleged harms and bank policy violations. Summary statistics are given in Table A2.

Table A2: *Complaint Fundamentals* Summary Statistics

| Variable | Mean | St. Dev. | Min. | Max | <i>N</i> |
|-----------------------|----------|----------|------|-----|----------|
| Raw Data | .3557047 | .4803409 | 0 | 1 | 149 |
| Petition | .22 | .4156341 | 0 | 1 | 150 |
| Personal Testimony | .2147651 | .4120443 | 0 | 1 | 149 |
| Typed | .9861111 | .1174383 | 0 | 1 | 144 |
| English | .5704698 | .4966786 | 0 | 1 | 149 |
| Bank Policy Citation | .5266667 | .500961 | 0 | 1 | 150 |
| Bank Policy Violation | .7333333 | .4436981 | 0 | 1 | 150 |

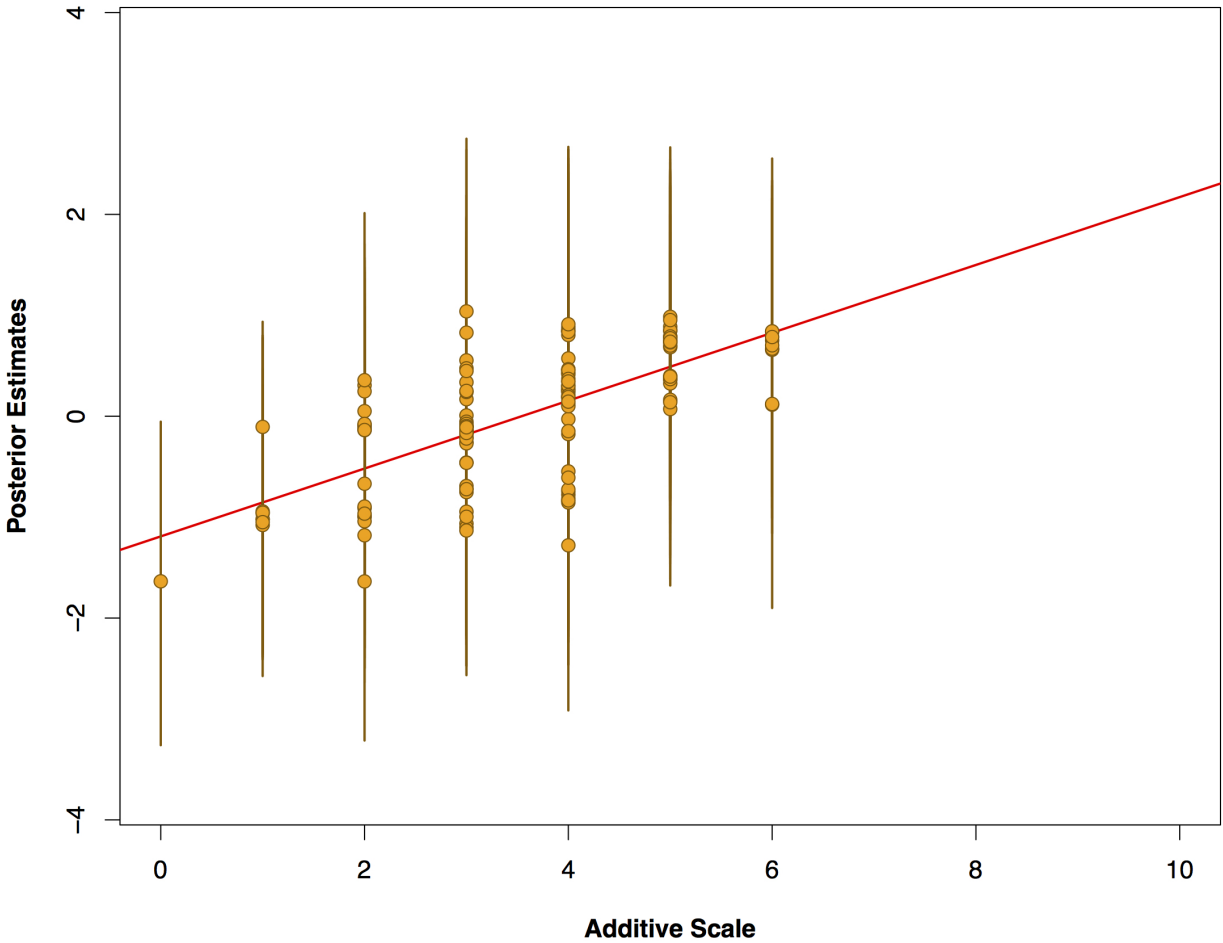
Complaints with *raw data*—e.g. data tables, maps, water and soil samples, etc.—are, in expectation, more compelling than those without data. If, for example, a hydro-electric project contaminates local people’s water source and water samples to this effect are collected, filers can convincingly argue that negative environmental impacts were not avoided or mitigated in accordance with Bank policy and that this has caused harm to individuals and communities. Complaints containing the *personal testimony* of project-affected persons can detail the nature of harms experienced. *Petitions* signed by individuals and groups can demonstrate widespread opposition to a project. Complaints that are *typed* demonstrate a basic professionalism one might expect of individuals filing a complaint with, essentially, bureaucrats within an international organization. Complaints originally written in *English* may fair better than those originally written in another language and later translated by the Inspection Panel and CAO; complaints in English suggest a certain proficiency in the working language of the Bank. Complaints with *bank policy citations* demonstrate even a basic understanding of Bank policy, what it allows, what it prohibits, etc. Citations can help ensure that the relevant policies and appropriate responses are triggered. For example, while all project-affected communities are entitled to be informed about and consulted

on projects prior to their execution, *indigenous* project-affected communities are entitled to a consultation process that is culturally appropriate and sensitive. As previously discussed in the main text of the paper, indigenous policy standards exceed those for non-indigenous peoples, increasing the likelihood of meritorious and, relatedly, successful indigenous-filed complaints. However, this can only happen if the Bank is, at minimum, made aware of a community’s indigenous identity and if, at maximum, the relevant operational protocol is invoked. Finally, complaints which draw connections between *bank policy violations* and harms experienced by project-affected communities are more likely to be successful. As discussed in the main body of the paper, the greatest barrier to complaint success before the Inspection Panel and CAO is connecting harms experienced with violations of Bank operational protocols, procedures, and performance standards. The Bank is very clear that project-affected communities can expect relief and redress if a Bank policy was violated *and* if that policy violation resulted (will result) in a documentable harm. Bank policy violations alone, just like harms alone, do not entitle communities to remedies from the Bank. Communities must clear both hurdles. Taken together, these seven variables constitute *complaint fundamentals*.

Four elements of the latent trait, *complaint fundamentals*—*raw data, typed, bank policy citation*, and *bank policy violation*—are informed by a gamma (1, 1) distribution. If we think of variables as questions, *raw data, typed, bank policy citation*, and *bank policy violation* are questions that ‘high achievers’ should answer ‘correctly’. The remaining three elements—*personal testimony, petition*, and *English*—are informed by a truncated normal (0, 1) distribution. *Personal testimony, petition*, and *English* might be ‘trick’ questions that even high achievers answer ‘incorrectly’. Individual testimonials, while able to communicate experienced harms, are unlikely to suggest, let alone demonstrate, an anterior Bank policy violation. Testimonials may not, therefore, enhance a complaint. Similarly, petitions may not render a complaint more meritorious. Articulated opposition to a project does not imply that the project has caused or will cause harm as a result of a Bank policy violation. Finally, complaints written in a language other than English should not, in expectation, be more compelling than those written in English. While English is the main working language of the Bank, the Bank also works in Arabic, Chinese, French, Russian and Spanish. Moreover, both the Inspection Panel and CAO invite project-affected communities to submit complaints in *any* language; non-English complaints are translated by professional translators. Thus, we assume a probability density closer to 0 for *personal testimony, petition*, and *English*.

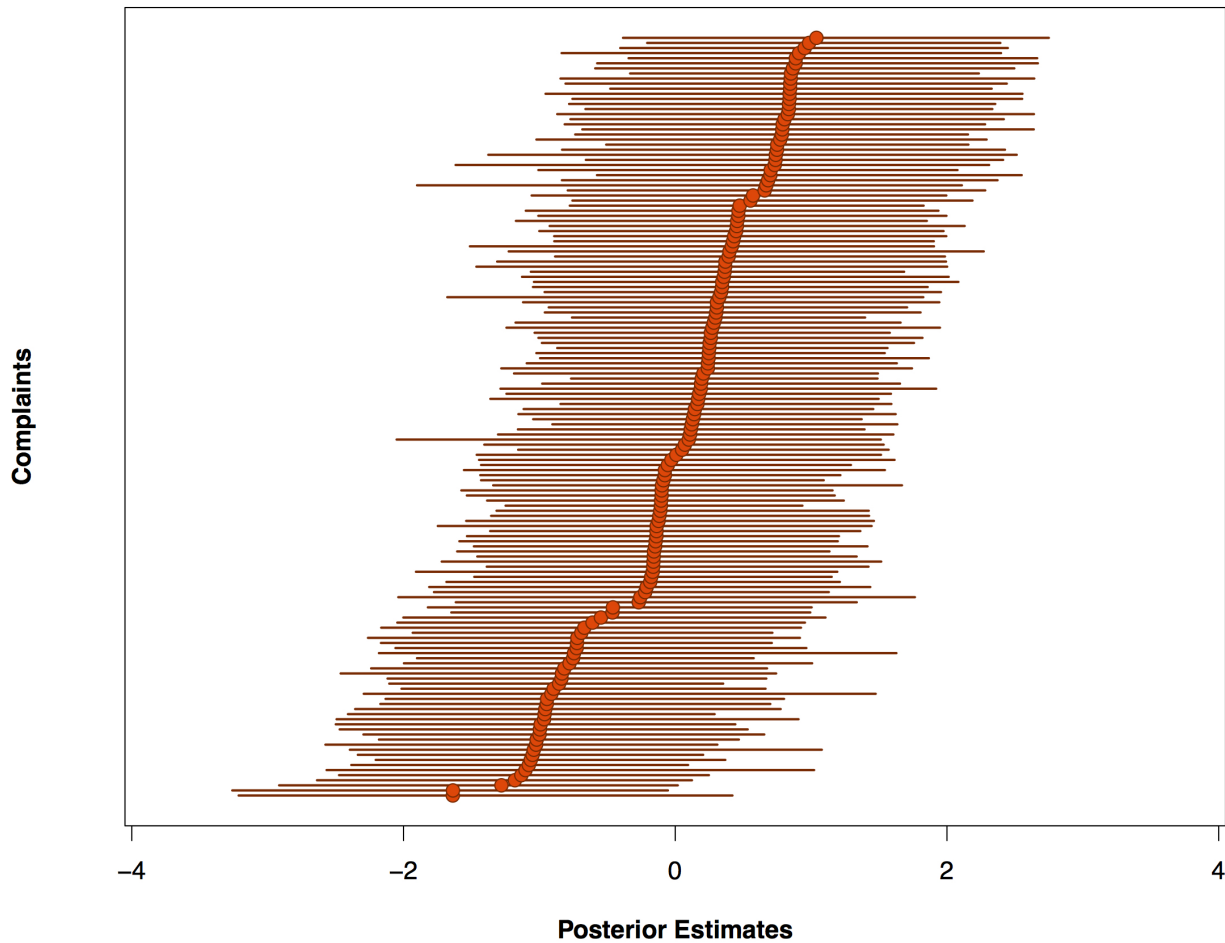
While our main study has 239 cases, we only have data on complaint fundamentals for 150 complaints. As displayed in Figure A.1, while an additive scale is somewhat consistent with our latent variable, giving equal weights to the individual measures obscures variation in complaint fundamentals at each level of the scale.

Figure A.1: Complaint Fundamentals: Additive Scale



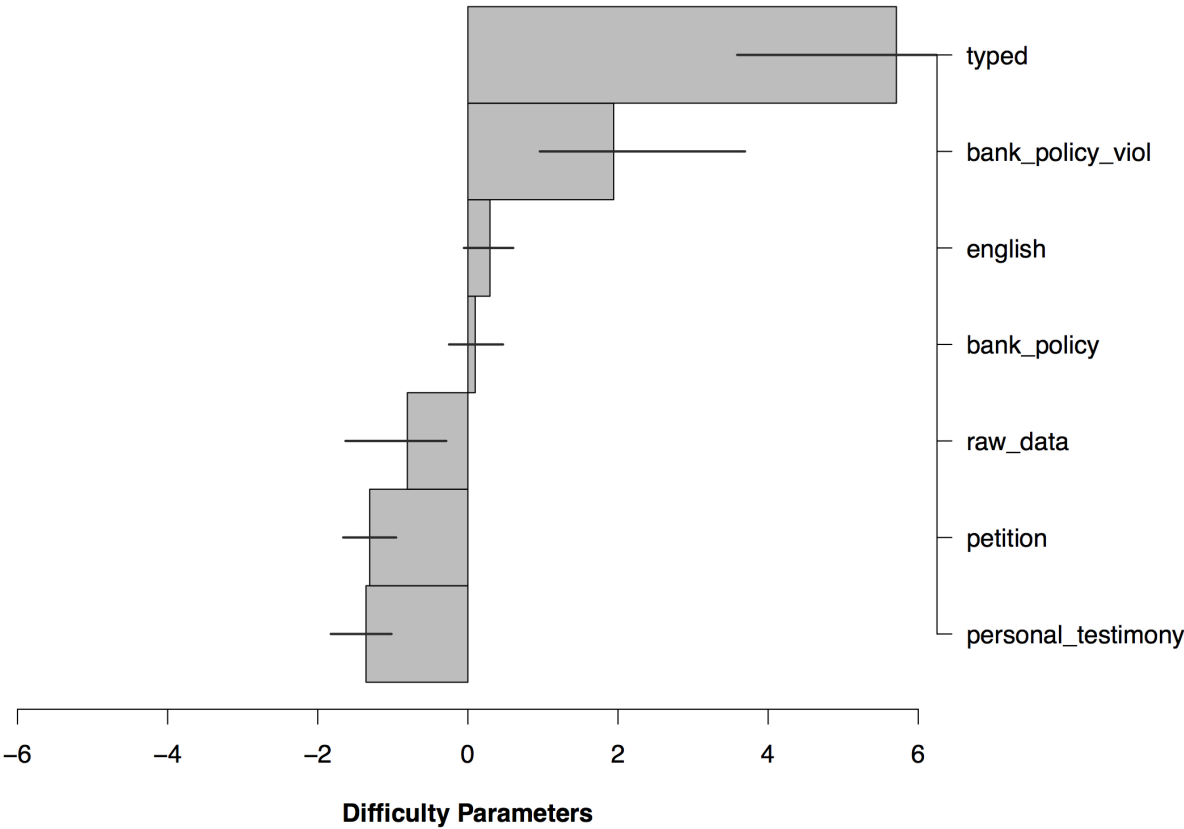
In Figure A.2, we take the means of the posterior distribution and plot a line for the 95% credible interval for each estimate. The 95% credible intervals are wide but this is to be expected, as the latent trait is comprised of only seven elements across a reduced sample.

Figure A.2: Complaint Fundamentals: Posterior Estimates



Next, we turn to the difficulty and discrimination parameters of the latent variable. Complaints that fulfill items that are ‘more difficult’ to ‘answer’ (values < 0), such as raw data, personal testimonies, and petitions, suggest that filers who are able to provide them have a higher baseline ‘ability’ than those who are unable to provide them. In contrast, complaints that only fulfill items that ‘easier’ to answer (values > 0), such as typed complaints and complaints which link experienced harms with bank policy violations, suggest that the filers have a lower baseline ability. Difficulty parameters are displayed in Figure A.3.

Figure A.3: Complaint Fundamentals: Difficulty Parameters



While we might expect that items used to estimate the latent variable which are difficult also discriminate well between complaints which meet and fail to meet certain complaint fundamentals, this is not necessarily so. As seen in Figure A.4, while *raw data* is difficult and submitting *typed* complaints is easy, the two measures discriminate fairly similarly between complaints scoring higher and lower on fundamentals. In addition, and as previously suggested, *English*, *petition*, and *typed* do not discriminate well between complaints. They are even slightly negative, indicating that complaints scoring higher on fundamentals can still fail to attain these elements of the latent trait.

Figure A.4: Complaint Fundamentals: Discrimination Parameters

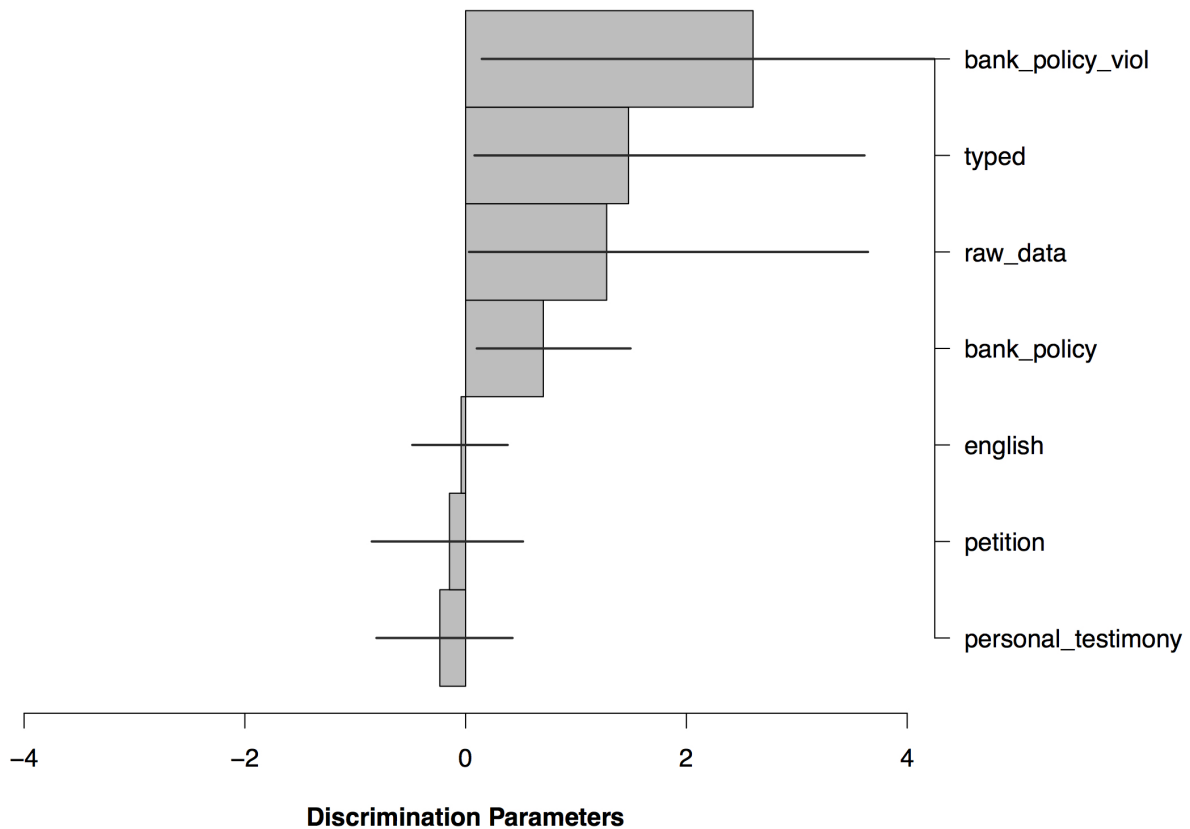
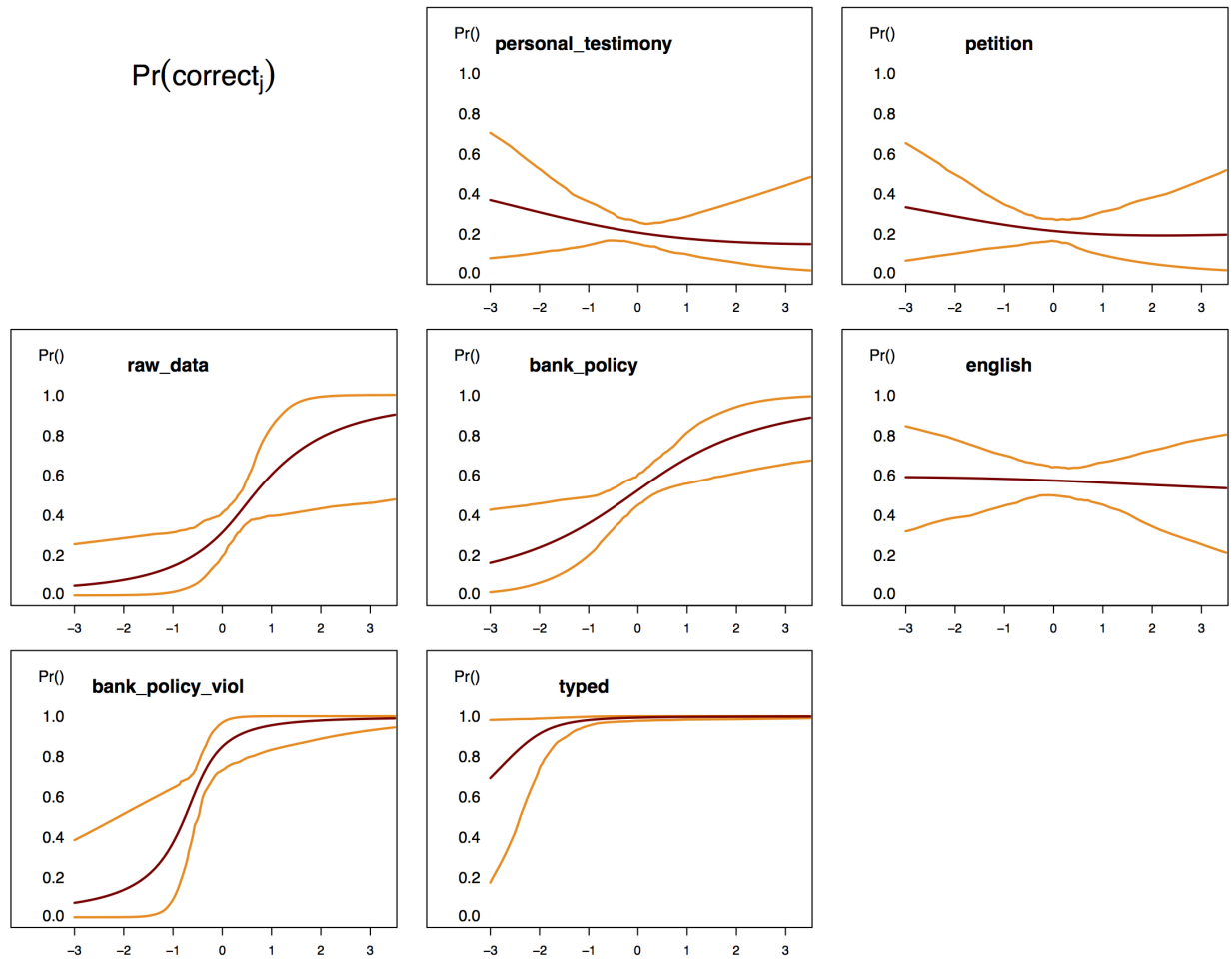


Figure A.5 visualizes both difficulty and discrimination of the items which constitute our latent variable. The probability of including items such as *petition* and *personal testimony* decreases as the value of the latent trait increases. In contrast, the probability of writing a complaint in English is fairly constant across values of the latent trait. *Bank policy violation* and *typed* can discriminate well between poor complaints and all others; however, these items cannot reliably discriminate between complaints scoring in the middle and upper ranges of the latent variable. While they have steep slopes in the lower range of *complaint fundamentals*, the slopes flatten in the medium and upper ranges. In contrast, *raw data* and *bank policy citation* are informative across values of the latent trait.

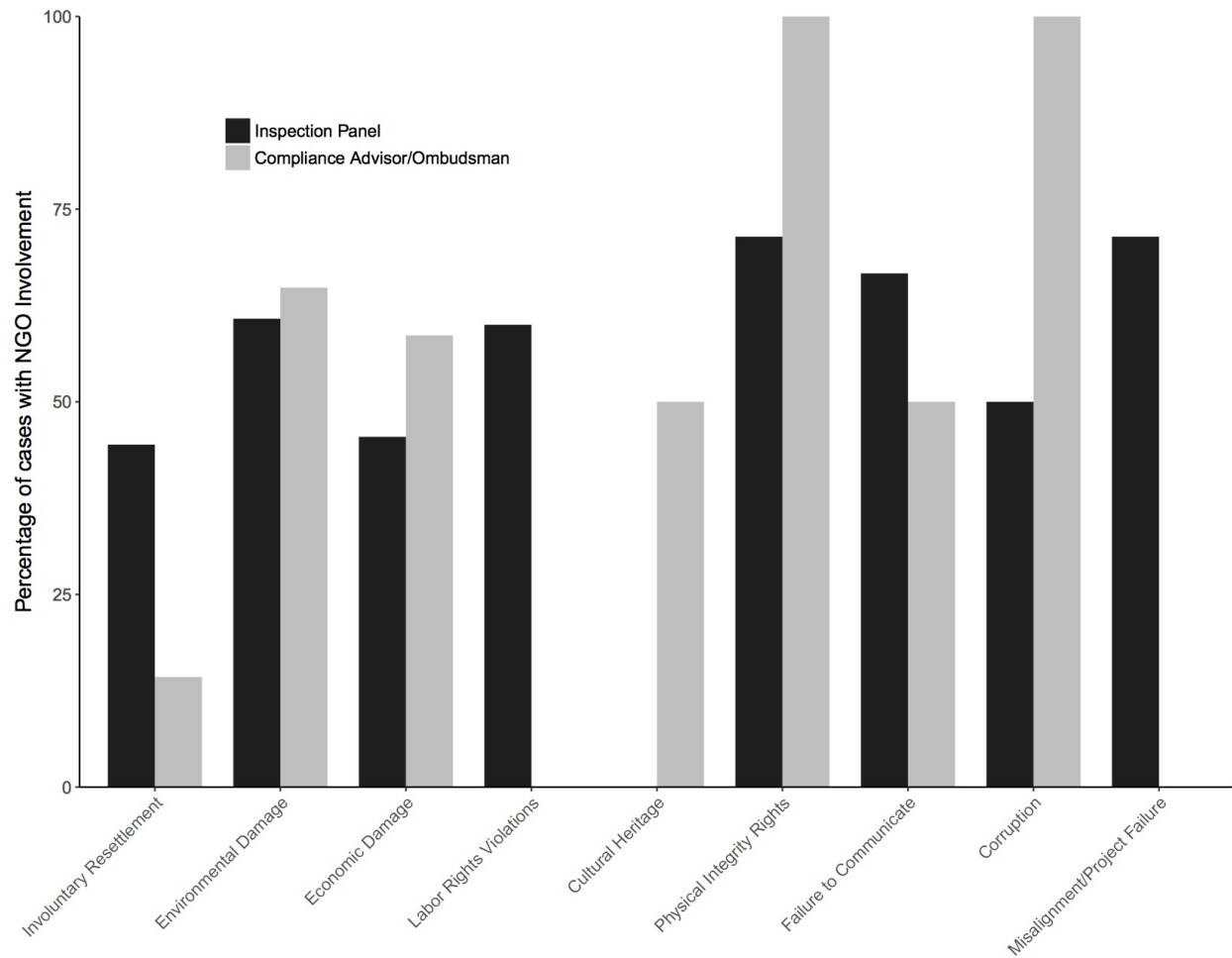
Figure A.5: Complaint Fundamentals: Discrimination and Difficulty



A.3 Additional Figures

Figure A.6 provides a simple graphical depiction of the percentage of Inspection Panel and CAO complaints supported by NGOs as distinguished by primary issue.

Figure A.6: Primary Issues Supported by NGOs



Similarly, Figure A.7 depicts Inspection Panel and CAO complaints filed by indigenous communities as distinguished by primary issue. Indigenous communities more frequently use the Inspection Panel to raise issues of involuntary resettlement environmental damage, and economic damage than the CAO, suggesting that projects funded by the different World Bank funding institutions (e.g., IBRD, IFC) affect these communities differently.

Figure A.7: Primary Issues Raised by Indigenous Communities

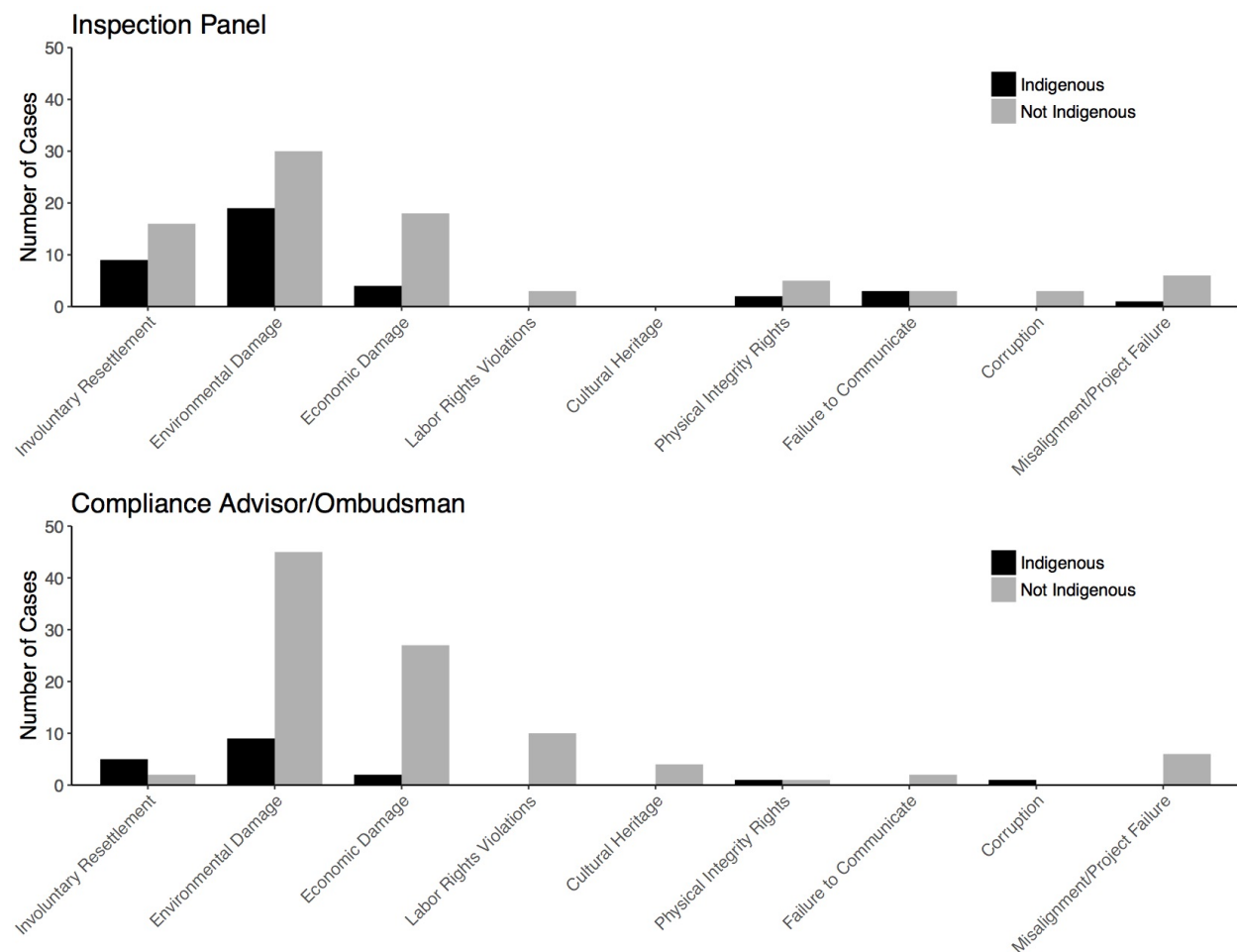


Figure A.8 depicts Inspection Panel and CAO complaints filed by indigenous communities and the proportion of issues raised as the primary, secondary or tertiary issues. Though damage to cultural heritage and labor rights violations are rarely (if ever) the primary issues raised by indigenous communities before the Inspection Panel or CAO, as seen in the previous figure, these issues may be raised as either the secondary or tertiary issue.

Figure A.8: Primary, Secondary or Tertiary Issues Raised by Indigenous Communities

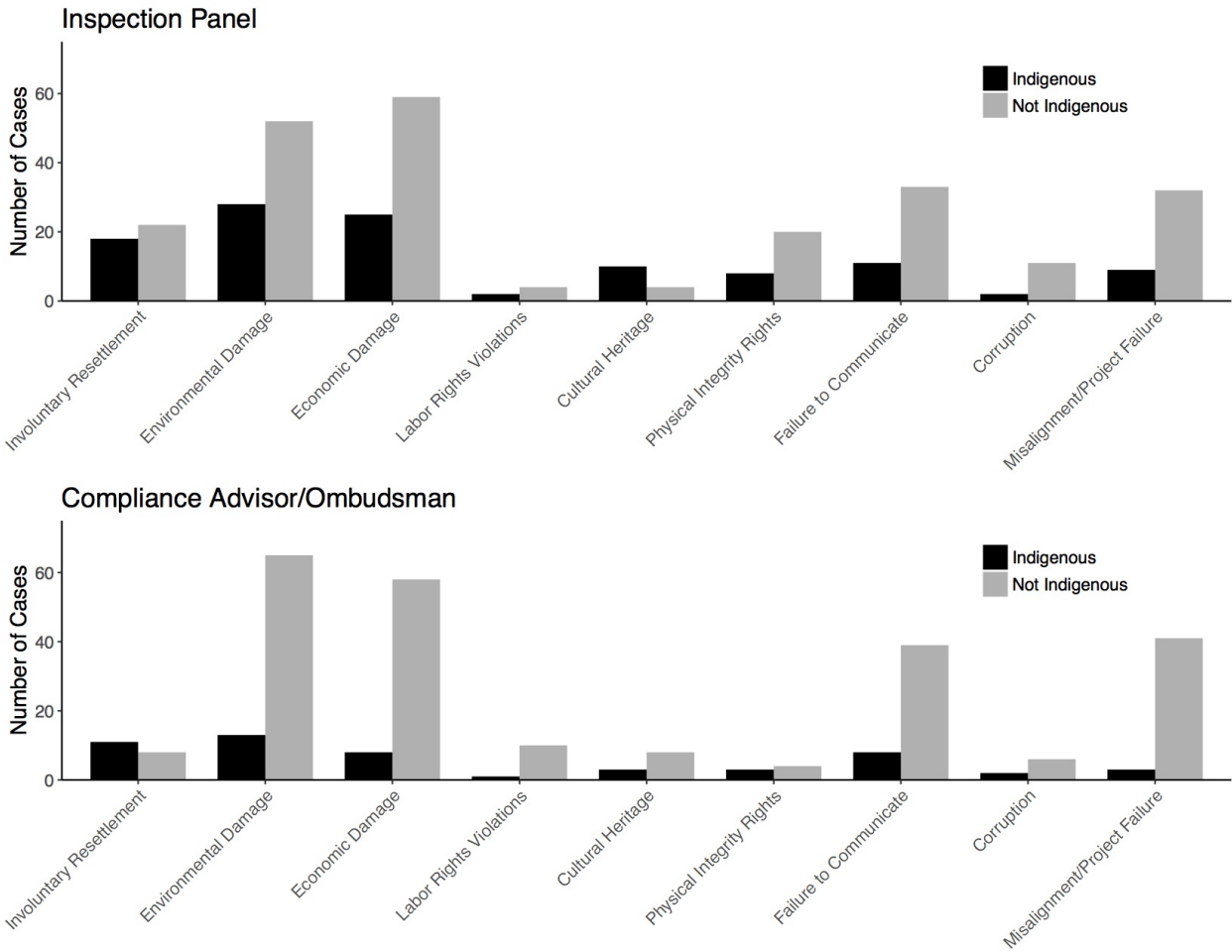


Table A3: Mediation Analysis

| | Complaint Fundamentals (1) | Harm Acknowledged (2) | Project Changed (3) | Compensation (4) |
|---------------------------------|----------------------------------|-----------------------------|---------------------------|---------------------|
| NGO Involvement | 0.123 (0.105) | 0.421 (0.254) | 0.329 (0.235) | 0.912* (0.320) |
| Complaint Fundamentals | | 0.133 (0.206) | 0.159 (0.190) | 0.438 (0.252) |
| Indigenous Involvement | 0.243* (0.116) | 0.916* (0.273) | 0.704* (0.258) | -0.208 (0.312) |
| Infrastructure Project | -0.119 (0.125) | 0.128 (0.302) | 0.209 (0.279) | 0.301 (0.353) |
| Mining/Resource Project | 0.112 (0.160) | 0.210 (0.362) | 0.276 (0.350) | 0.290 (0.424) |
| Project Envir. Risk | 0.311* (0.111) | 0.342 (0.271) | -0.187 (0.253) | 0.126 (0.305) |
| Venue: CAO | -0.435* (0.126) | 0.698* (0.302) | 0.435 (0.287) | -0.058 (0.360) |
| Issue: Involuntary Resettlement | 0.038 (0.123) | -0.230 (0.296) | -0.062 (0.274) | 0.816* (0.325) |
| Issue: Environmental Damage | 0.184 (0.112) | -0.346 (0.273) | 0.103 (0.251) | 0.232 (0.339) |
| Constant | -0.264* (0.125) | -1.232* (0.311) | -0.932* (0.290) | -2.241* (0.436) |
| N | 150 | 149 | 150 | 150 |
| R^2 | 0.181 | | | |
| adj. R^2 | 0.135 | | | |
| Resid. sd | 0.596 | | | |
| AIC | | 177.698 | 203.020 | 131.303 |
| BIC | | 297.856 | 323.445 | 251.728 |
| $\log L$ | | -48.849 | -61.510 | -25.652 |

Standard errors in parentheses

* indicates significance at $p < 0.05$

A.4 Mediation Analysis

Table A3 presents the full regression results for the mediation analysis presented in Figure 7 in the main text. Model 1 shows the first stage regression using NGO involvement to predict complaint fundamentals. This matches Model 1 in Table 2 in the main text. Models 2-4 estimate the effect of NGO involvement on our three outcome variables, *harm acknowledged*, *project changed*, and compensation, as mediated by *complaint fundamentals*.

A.5 Sources and Data Collection

Coders on this project utilized a combination of primary and secondary source materials. Primary sources for Inspection Panel cases include the Requests for Inspection filed by complainants, Notices of Registration, World Bank Management Responses to Requests, Eligibility Reports, Investigation Reports, Management Reports and Recommendations in Response to the Investigation Report, relevant Press Releases, follow-up Management Progress Reports, maps and other ancillary documents. Primary sources for the Compliance Advisor/Ombudsman (CAO) cases include the filed Complaints, CAO Assessment Reports, Agreements documenting resolution between the disputants, Ombudsman Close-out Reports, Compliance Appraisal Reports, Audit Reports and Monitoring Reports. Secondary sources include Annual Reports published by the Inspection Panel (1996-2016) (<http://ewebapps.worldbank.org/apps/ip/Pages/Publications.aspx>) and the CAO (2000-2016) (<http://www.cao-ombudsman.org/publications>). The greatest challenge facing coders involves the absence of primary documents published for public use. In various cases across both accountability mechanisms, one or several documents relevant to the cases were not made available. While this was less of a problem with the Inspection Panel, there were multiple instances when Panel documents, namely the Board Discussions, were unavailable on the online database. Similarly, numerous requests filed to the Compliance Advisor/Ombudsman were not present on the online database. There were also instances in which no documents relevant to a CAO case were published. This was, however, a rare occurrence.

In CAO cases where Complaints were unavailable, coders were directed to collect data from CAO summaries and other CAO documents. For example, information regarding the primary, secondary and tertiary issues raised in the complaint was summarized by the Ombudsman in a section of its Assessment Report highlighting main case concerns raised by the complainants. However, in cases without Assessment Reports or any other relevant CAO documents, coders were directed to draw inferences from official summaries posted on the case pages of the CAO online database. This created a preponderance of the evidence standard rather than a beyond a reasonable doubt standard. Instances, where the necessary information to make an informed coding choice is unavailable, are coded as missing. Instances where information is available, but the coder was uncertain, were flagged for discussion in regular meetings of the coding team and a group decision

was made on how to code the variable. Additional information necessary to understanding certain coding choices is discussed in the coder notes, which are available online, along with the full codebook, list of sources, and the dataset itself.

A.6 Interviews

A.6.1 Interview Selection Method

Coders examined all open Inspection Panel (IP) and Compliance Advisor/Ombudsman (CAO) cases to establish the population of non-governmental organizations (NGOs) that would be able to give the investigators insight into through which mechanism NGO-assisted complaints enjoy an increased likelihood of a successful outcome (e.g., having harm acknowledged, projects changed or halted, and affected communities compensated). Drawing upon the Requests for Inspection and Complaints filed to the Inspection Panel and CAO, respectively, coders assembled a list of NGOs that had filed or assisted project-affected communities in filing complaints to these accountability mechanisms. Coders then narrowed down this list to those that had an electronic presence that provided contact details (phone or email), and had basic proficiency in English or Spanish to answer questions related to their work with the Inspection Panel or CAO. Emphasis was placed on finding not just organizations, but names within the organizations that could be used as an in to discussions. NGOs were then contacted by phone or email, and representatives were asked to participate in a 20-minute recorded telephone interview. Interviewees were asked about the nature and extent of their support of project-affected communities, how they chose cases and communities to represent and support, and their perspective on the effectiveness of their efforts. If subjects did not wish to be taped, handwritten notes were taken instead. Interviewees were not required to answer any questions they did not want to answer, and could withdraw from the interview at any time. The audio files were destroyed promptly after transcription, and all interview transcripts and notes were anonymized. Compensation was not provided, though the investigators offered to share the final research product, if the interviewees so wished.

A.6.2 Interview Invitation

The World Bank as an Enforcer of Human Rights

We are requesting to interview you as part of a research project regarding human rights enforcement by the World Bank. Participation in this research is entirely voluntary. This document explains information about the study. If anything is unclear to you, please ask us for clarification.

Purpose of the Study

This study evaluates the effectiveness of the World Bank Inspection Panel and Compliance Advisor/Ombudsman (CAO).

Participant Involvement

If you agree to take part in this study, we kindly request 20 minutes of your time for a telephone interview. With your consent, we will record the interviews. If you do not want your interview to be taped, handwritten notes will be taken instead. You do not have to answer any questions you do not want to answer, and you may withdraw from the interview at any time.

Compensation for Participation

You will not be compensated for participating in this study. However, we will share the finished research paper with you, if you wish.

Confidentiality

If you consent to us recording the interview, the audio files will not be shared with anyone except the research personnel. Once transcribed, audio files will be promptly discarded. All interview transcripts and notes will be anonymized. Anonymized transcripts may be shared with other research collaborators.

A.6.3 NGOs Interview Instrument

1. How long has your organization been working with project-affected communities?
2. Can you walk me through what a typical case looks like when you work with a project affected community to address a grievance? Lets begin with how you usually first come in contact with a project-affected community.
3. Lets begin with how you usually first come in contact with a project-affected community.

Questions not to leave out:

1. Do you contact the project-affected communities or do they reach out to you first?
2. How do project-affected communities find out about your organization?
3. In which issues areas is your organization most active?
4. What resources or assistance do you typically provide to project-affected communities?
 - (a) Is this assistance similar to or different from other NGOs?
5. How do you determine what assistance or resources to devote to particular complainants?
6. Do you ever partner with other NGOs?
 - (a) Why, or why not?
 - (b) Is there an advantage to partnering with other NGOs in the complaints process?
7. Do you think that project-affected communities are more likely to find relief from the World Bank if their complaint is supported by an NGO?
 - (a) Why or why not?
8. Do project-affected communities ever come to you with complaints that you are unable to support?

9. In your experience what has been the long-term effect on communities as a result of the complaint process?
 - (a) Is the community empowered, or brought together in coalition, or are there other long term effects? Are there any negative effects?
10. In your experience what has been the long-term effect on the firms that have been brought before the Inspection Panel and CAO? Does the process affect their behavior at all outside of the case in question?
 - (a) Are these firms more likely to comply with regulations in the future?
11. Do you think there are any long term effects on the governments in these countries, either locally or nationally, from complaints that get brought?
12. We are interested in talking with other NGOs that represent project-affected communities. Could you recommend any other organizations or individuals we should reach out to?
 - (a) Can you please provide us their contact information?