

October 2, 2023

To: Independent Accountability Mechanisms Network (IAMnet) members

Re: A call to defend the independence of IAMs

Dear IAMnet members,

As civil society organizations and advocates who support communities to use independent accountability mechanisms (IAMs) harmed by internationally financed projects, we value the role of IAMs in facilitating access to justice, but we are deeply concerned about the escalating threats to the independence of these mechanisms that we have observed in recent years. On the occasion of its upcoming annual meeting in London, we call on the Independent Accountability Mechanisms Network (IAMnet) and its members to reaffirm their commitment to the independence of IAMs.

For two decades, IAMnet has been an important convening of IAMs, providing capacity building and legitimacy to its members. As recognized by IAMnet's name and its [criteria](#) for participating in the network, independence from the parent institution is crucial to the legitimacy and effectiveness of these mechanisms. However, recently, we have observed an alarming trend of management interference with – and even capture of – several IAMnet members that have made decisions and findings that the leadership and legal departments of their respective institutions did not like.

Recently, there have been several troubling instances of interference that are a direct assault on the independence of IAMs:

- **Efforts to capture and undermine the compliance function at the Compliance Advisor Ombudsman (CAO):** Since its inception in 1999, founding CAO Vice President Meg Taylor imbued the Office of the CAO with a vibrant culture of independence, which continued through the term of her successor Osvaldo Gratacos, who came from an oversight background. During this period, the IFC tried to limit the independence of CAO and yet the office nonetheless issued a series of hard-hitting compliance reports that drew public attention to the social, environmental and human rights impacts of IFC projects, prompting a number of systemic reforms that improved the institution. In 2020 CAO Vice President Gratacos's contract was not renewed by the President of the World Bank after he resisted intense pressure to compromise the independence of the office from management. Rejecting qualified candidates with backgrounds in accountability, the World Bank President then selected a new CAO Director General with a background in bank management at another international financial institution. The Director General has since hired several other CAO staff and

consultants with bank management backgrounds, a departure from previous CAO hiring decisions. This included an attempt in 2022 to hire an IFC manager to lead the compliance unit, which members of the undersigned organizations decried.

The personnel changes at CAO have occurred as the Office of the General Counsel has stepped up its interference, most notably through the approval of a non-disclosure agreement that impedes CAO's ability to disclose a forthcoming investigation of child sexual abuse in an IFC project in Kenya ([Bridge International Academies](#)). Meanwhile, CAO has removed the former head of the compliance unit - who worked on the Bridge case - and advised staff that he is on leave until further notice, without providing further information. This is amidst reports that CAO staff who raise concerns about the erosion of the office's independence are marginalized and retaliated against.

- **Retaliation against a Panel member at the Independent Complaints Mechanism:** A panel member at the Independent Complaints Mechanism (ICM) of the German, French and Dutch development banks (DEG, Proparco and FMO, respectively) was informed by the CEO of DEG that her contract would not be renewed because he was unhappy with an eligibility determination that the panel made in regards to a complaint about a financial intermediary investment. She was told that they wanted a panel member that is more amenable and cooperative with management. This explicit retaliation against a panel member by management for exercising her independent judgment in making an eligibility determination calls into question whether the ICM is in fact operationally independent from management and meets the criteria for membership in IAMnet.
- **Interference of the General Counsel at the Compliance Review Panel of the Asian Development Bank:** We have long-running concerns about interference from the General Counsel's office limiting the independence of the Compliance Review Panel. The concerns go back more than a decade to when the General Counsel forced the CRP to change one of its recommendations in the Cambodia Railways case calling for ADB to set up a remedial compensation fund. Years later, the Office of the General Counsel issued an [interpretation memo](#) regarding the Accountability Mechanism policy that limits the powers of the CRP. This memo was used by management in a recent case to limit the monitoring mandate of the Panel. A panel member at the Compliance Review Panel resigned early from her term in July in protest.
- **Attack on the independence of the Independent Redress Mechanism of the Green Climate Fund:** In a recent complaint filed by Nicaraguan Indigenous complainants with the GCF's IRM, the General Counsel agreed with the IRM to implement a firewall between himself as advising the management, and the Deputy General Counsel as advising the IRM. Despite the firewall, the Deputy General Counsel intervened during

the Board deliberations on the case to respond to management related issues around project oversight in the context of the Accreditation Master Agreement with the CABEL, the Accredited Entity. The same Deputy General Counsel who had advised the IRM was then acting as General Counsel and did not respect the firewall. Consequently, the IRM was kept out of discussions by the Board on its draft decision and on the advice of General Counsel, the Board adopted a decision that undermined the monitoring mandate of the mechanism. IRM was prohibited from monitoring whether the project has been brought into compliance, and that assessment was placed in the hands of management, contrary to established procedures and guidelines adopted by the Board. The effect of the decision was to undermine the independence, procedures and mandate of the IRM.

- **Efforts to Undermine the Independence of the World Bank Inspection Panel:** In establishing the World Bank Accountability Mechanism (AM) the Bank's Board of Directors seriously compromised the ability of the Inspection Panel to operate independently by requiring that the Panel get approval for its budget through the AM Secretary and by requiring Panel staff to officially report to the AM Secretary. When concerns were raised around this structure, the AM Secretary requested an opinion from the General Counsel in the matter, which is contrary to operating independently of management. Additionally, the AM Secretariat has also sought to prevent cases from moving swiftly to compliance, continuing to pursue the possibility of dispute resolution despite clear indications that requesters have chosen compliance. In one case, these efforts led directly to a government initially refusing to permit a visit by the Inspection Panel for a compliance investigation, delaying the process by several months.
- **Problematic involvement of general counsel offices in IAM policy development:** We also understand that representatives from banks' legal departments have joined the drafting teams of IAM policies, including policies governing the World Bank Inspection Panel/Accountability Mechanism and CAO, and are slated to be a decision maker in the upcoming ADB AM review. While this is not a new development - as IFI legal departments have historically weighed in on IAM policies - we are concerned that their influence over the policy drafting processes is growing and undermining the independence of IAMs.

These are but a few examples of efforts to capture IAMs and undermine their independence. In addition to concerns about management capture and interference, we also have concerns about structural independence – several IAMnet members do not have their own office at the parent institution. For instance, the **AIIB's Project-Affected People's Mechanism (PPM)** is housed within the Complaints-Resolution, Evaluation, and Integrity Unit (CEIU), and does not have a direct reporting line to the AIIB Board of Directors. The managing director of the CEIU reports

not only to the Board but also to the president, who in fact appoints the director and is responsible for the staffing and resourcing for the PPM. This lack of structural independence may be one of the reasons why the PPM has **yet to accept a single complaint since its establishment five years ago.**

To address these grave threats to the integrity and effectiveness of IAMs, we are calling IAMnet to:

- Reaffirm independence, both structural and operational, as a criteria for membership to the network;
- Establish a Standing Committee on the independence of IAMs, which reports regularly on the extent to which each IAMnet member meets the structural and operational criteria, as well as any specific threats to the independence of IAMnet members;
- Speak out against inappropriate interference and threats to the independence of IAMnet members by the management of parent institutions.

Sincerely,

Accountability Counsel

Arab Watch Coalition

Asia Indigenous Peoples Network on Extractive Industries and Energy (AIPNEE)

Bank Information Center

Both ENDS

Bretton Woods Project

African Law Foundation (AFRILAW)

Center for Research on Multinational Corporations (SOMO)

CEE Bankwatch Network

Community Empowerment and Social Justice Network (CEMSOJ), Nepal

Counter Balance

DamSense

Friends with Environment in Development

Fundeps

Gender Action

Green Advocates International

Inclusive Development International

International Rivers

Jamaa Resource Initiatives, Kenya

Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP)

Lumière Synergie pour le Développement (LSD, Senegal)

NGO Forum on ADB

Oxfam

Recourse

Swedwatch

Urgewald