



Jokubauskaite, G. (2019) Tied affectedness? Grassroots resistance and the World Bank. *Third World Thematics: A TWQ Journal*, 3(5-6), pp. 703-724. (doi:[10.1080/23802014.2018.1595125](https://doi.org/10.1080/23802014.2018.1595125))

There may be differences between this version and the published version. You are advised to consult the publisher's version if you wish to cite from it.

<http://eprints.gla.ac.uk/181675/>

Deposited on: 12 March 2019

Enlighten – Research publications by members of the University of
Glasgow
<http://eprints.gla.ac.uk>

Tied Affectedness? Grassroots resistance and the World Bank

Dr Giedre Jokubauskaite

The first part of research for this paper was conducted as:
Post-Doctoral Research Associate, Durham Law School
University of Durham, UK

The second part of research for this paper was conducted as:
Lecturer in International Law
School of Law, University of Glasgow

Abstract: This paper argues that there can be no category of ‘affected people’ without a decision-making process that triggers affectedness in the first place. In that sense, affectedness is a category that is by default, although not irreversibly, ‘tied’ to a certain institutional context. In this paper, I examine such ‘tied’ quality of affectedness by focusing on the benefits and dangers of the affectedness paradigm to grassroots organisations in the context of World Bank projects. Whilst in principle the category of ‘affected people’ seems to empower the grassroots, this article argues that the danger of institutional co-optation in this context is also high. The World Bank and its borrowers have full discretion to include, but also to exclude, people from this category. Therefore, the voices of grassroots organisations relying on this paradigm can be instrumentalised and distorted. This article suggests that mediation can help to ‘untie’ affectedness from the top-down institutional discourse, in order to create space for a more balanced dialogue between resistance groups and decision-makers.

Keywords: participation and power, resistance and activism, co-optation, affected people, mediation, international development.

Introduction

Development projects affect certain people more so than others. In practice of international financial institutions (IFIs) this understanding is captured by a notion of ‘affected people’. Affectedness represents an idea that those who are seriously affected by a given decision should not be coerced into obedience, but rather should be given a chance to take part in the relevant decision-making. In a similar vein, affected people should be given an opportunity to raise issues and/or make complaints, if such decision harms them in a disproportionate manner. In this special issue such an idea is conceptualised as ‘the affectedness paradigm’, which is arguably on the rise not only in development circles, but also in other areas of global governance¹.

In some ways affectedness can be understood as an ‘invited participation’, defined by Cornwall as a participation that was ‘orchestrated by an external agency of some kind’². However, whilst participation is usually ‘invited’ by definition (in the sense explained by Cornwall) affectedness can be created by the very fact of decision-making, without any such process of inclusion taking place. It would therefore be inaccurate to treat affectedness as a restatement of the participation debate, and to claim that academic literature on participation can help us to understand the significance and/or the challenges of the affectedness paradigm. Together with other papers in this volume, my analysis therefore advances a new set of questions that emerge from this emerging paradigm in global governance, focusing in particular on how affectedness operates in the context of international development interventions.

The notion of affectedness became commonplace in official development discourse through the work of independent accountability mechanisms, such as the World Bank Inspection Panel (the Panel)³. These accountability mechanisms enable complaints from the people harmed by development interventions, when harm is induced by the funder’s non-compliance with its policies⁴. Nonetheless, in practice people actually become ‘affected’ by development project as a result of operational decision-making by the borrower and its funders. This explains why my paper aims to go beyond the focus on accountability mechanisms and their jurisprudence, which has already been discussed in great detail in the literature on the functioning of the Inspection Panel⁵. Accordingly, this paper looks at the shift towards ‘affectedness’ through a conceptual lens, rather than focusing on the technical details of how the World Bank and/or Inspection Panel operates. My objective is to ask some broader questions about affectedness as a governance category, and to understand how, if at all, it changed the nature of decision-making process in international development⁶.

The idea of affected people as a governance category that developed in the context of IFIs should be distinguished from the grassroots resistance, which is mounted by the real-life social movements that challenge development projects. These movements, many of which consist of indigenous peoples, are fairly well documented and studied⁷. They are usually informal, community-based, self-organised groups

of people that are exposed to the consequences of development, and thus contest development interventions at a foundational level. The aim of such contestation is usually to protect the precarious social balance represented by the status quo.⁸ There can be several groups resisting the same project (e.g. numerous indigenous communities⁹); and also a single project might be beneficial to some, whilst potentially resisted by others.¹⁰ The focus of this paper is on the latter category of negatively affected grassroots that challenge the dominant development model and/or the settled development path envisioned by the government.

In practice the category of ‘affected people’ operates in the same issue area that is challenged by the grassroots movements. Arguably not by accident, IFIs readily accept as ‘affected people’ the persons who risk losing access to natural resources; who might be removed from their land; and whose lifestyle as indigenous peoples is threatened by a given project¹¹; all of which are the groups that are most likely to challenge development projects¹². Therefore, it seems fair to assume that the category of affected people was created as a response to the movements of resistance at both, local and international level¹³. However, to what extent can the grassroots ‘trust’ this category as an avenue for defending their cause? What are the advantages but also the dangers of their engagement with such emerging affectedness paradigm in international development?

My paper addresses these questions by focusing on one key facet of affectedness, notably the fact that in order for someone to be affected, there has to be a *decision*, and thus an authoritative institution that makes such a decision in the first place. This is not to say that affectedness is only generated by international institutions and their decision-making. A group of people can call themselves ‘affected’ in order to mobilise a wider community and to demand for certain entitlements, in which case affectedness becomes a category that enables political contestation and satisfies a quest for inclusion¹⁴. Nonetheless, these political demands are inevitably conditioned by the decisions already taken, because affectedness, by definition, is based on a political ‘irritant’, i.e. on an exercise of authority by a competent institution. Put otherwise, there can be no affectedness without an authoritative act of *affecting*. In that sense,

affectedness comes with a certain pre-loaded, top-down governance bias. This is what I call the ‘tied’ quality of affectedness. The relationship between the top-down decision-making, and the bottom-up social practice, is therefore bound to cause tensions and disagreements as well as theoretical problems for governance frameworks based on the affectedness paradigm.

Generally, in this paper I argue that without specific measures to address such an implied top-down bias, affectedness can have little emancipatory potential. The risk of co-optation, where local voices are instrumentalised rather than taken seriously, is high. Moreover, bottom-up movements often do not perceive development projects as economic opportunities or ‘freedoms’¹⁵, but rather as top-down impositions that create social disruption and redefine the conditions of co-existence in a given society. In this paper I argue that one of the key questions about affectedness is *who* should identify the affected people and make sure that they are properly included into such bargaining process. I suggest that due to their decision-making bias, neither the Bank, nor its satellite bodies such as the Panel are fit to take on such a role; however, similar role could be fulfilled by the independent third-party mediators.

The argument in this paper advances in three steps. Firstly, I show the diversity of resistance movements as captured by the academic literature and explain the rise of affectedness paradigm in the World Bank governance framework. Secondly, I identify the core advantages, as well as the issues that become apparent when we look at the use of affectedness paradigm by the grassroots. Finally, I make a case for a potential role of the third-party mediators to ascertain affected people, as one strategy that might help to ‘untie’ affectedness from its institutional bias. I end with a few concluding remarks about the unsettled nature of affectedness paradigm.

A diversity of grassroots resistance

As any non-institutionalised phenomenon, grassroots resistance can be difficult to pin down. Even though it has been identified and studied carefully, scholarly accounts contain significant differences, some of which I underline in this section.

The key element that connects all resistance movements and is captured in most academic accounts is their stance against certain dogmas of capitalism. To be more precise, the common factor tends to be their stance against the homogenising tendencies of modern, capitalist social structure¹⁶. For instance, such a view is articulated by a group of indigenous scholars¹⁷ who claim that

‘the grammar of modernity involves ... the normalisation of three particular desires:... 1) Modern teleologies (based on a seamless notion of progress as social engineering achieved through science and technology); 2) innocent heroic protagonism (anthropocentric agency grounded on Cartesian subjectivities, i.e. being solely defined by “thinking”); and 3) totalising forms of knowledge production (i.e. knowing/naming the world to control it...).¹⁸

This idea of alternatives to capitalist mindset and counter-hegemony can be found in most accounts about resistance. Development projects on the other hand tend to be the focal point around which and/or against which resistance movements can be mobilised. That is because by and large development policies tend to have some neoliberal tint – even in those instances where the projects are aimed at improving the lives of local and indigenous communities¹⁹. Generally, the focus of the IFIs, including that of the World Bank, is on the economic development²⁰, recast more recently in a broad aim of poverty reduction. Development funding therefore exhibits exactly the sort of ‘grammar of modernity’ grounded in efficiency and income-generation that Ahenakew et al. are referring to, and that many of the groups opposing development projects tend to find so alien, imposing and therefore unacceptable.

Beyond this shared entry point and convergence at the ideological level, modes of resistance differ. Probably the most established understanding of resistance is grounded in cultural identity, or other types of identity politics²¹. In many scholarly accounts about resistance, culture is the element that triggers self-identification, and also, potentially, claims to self-determination of the entire community. Indigenous peoples tend to be the core group here; although the scope of cultural identity can be broader than that. Agency can also come into being through ethnicity, religion, caste. Social movements based on cultural identity are usually placed in contrast with resistance movements that emphasise class, and the

exploitative relations between capital and labour (e.g., trade unions)²². Nonetheless, arguably such class-focused way of perceiving resistance is still based on a particular type of identity claim, notably the one that emphasises worker mentality, as opposed to that of a bourgeoisie.

A significant departure from this identity-based understanding of resistance is offered by Partha Chatterjee through his concept of ‘political society’²³. Chatterjee posits the notion of political society as a messy, spontaneous, unchartered, and at times violent ‘alter-ego’ of civil society²⁴. Political society comes into being in situations where groups of people lead their lives in a close proximity to each other, often faced with similar threats and/or dangers. Often these groups exist on the edges of legality (Chatterjee calls this ‘paralegal arrangements’)²⁵; meaning that their day-to-day behaviour might be against formal laws; but the groups survive because they serve some function in a wider society. Chatterjee uses an example of a slum dwelling next to a railway line, where the occupiers have no formal rights to use the land, but they nonetheless develop certain relations (of both, dependence but also resistance) with the governmental authorities.

Chatterjee explains this situation by making a distinction between ‘citizens’ and ‘population groups’, the governance of which is ‘less a matter of politics and more of administrative policy, a business for experts rather than for political representatives’²⁶. Political society is formed on the basis of population groups, which are bound as units of governance in the eyes of the authorities. If groups of political society behave strategically, they might be able to negotiate certain governance *entitlements*²⁷ from the government, for instance, an access to electricity on the land that they use without formal right to do so. However, they cannot claim *rights* (for instance, a right to adequate housing)²⁸ because their status as a population group is qualitatively different from that of a group of law-abiding citizens.

In Chatterjee’s account, political society functions in times and spaces that are different from the ‘homogenous time and space’ of a capitalist society²⁹. Nonetheless, the members of such groups do not necessarily have a sharp stance against dominant capitalist structure. In fact, their survival depends on the ability to co-exist with it. Political society is constantly struggling to negotiate the more favourable terms

and conditions of such co-existence³⁰. However, when they succeed, ‘the success [of these populations groups] is necessarily temporary and contextual’³¹, because the entitlements that they acquire have to be constantly reasserted and re-negotiated in the face of changes in governing elites and their developmental priorities.

In Chatterjee’s account, political society is not necessarily ‘glued together’ by culture and/or identity³². Instead, its existence is triggered through a need for political mobilisation (for instance, because the land where a group lives is at risk of being repossessed for a development project). Over time such an ‘empirically assembled population group’³³ is ‘invested with a moral content of a community’³⁴. This way, the members of a group acquire the sense of being a part of a collective, and a resulting self-identification with that particular group.

The notion of resistance resulting from political society is therefore wider and more malleable than the one that is offered by the scholars focusing on identity. The counter-hegemonic claims emanating from such groups are also likely to be less radical and thus more amenable to co-optation. That is because development does not explicitly threaten the collective identity of such a group, as in case of indigenous peoples or certain religious minorities. Nonetheless, development project causes disruption, because it re-opens a question of hard-negotiated paralegal arrangements that political society had reached with the government over time. Hence, whilst the group members of political society have good reasons to resist development, they are likely to be more open to more diverse development solutions than the people whose resistance is organised along the lines of ethnic and/or cultural identity.

The aim of the preceding introduction to basic concepts is to demonstrate that the idea of resistance covers a diverse range of social movements that differ in terms of origins, motivations and claims that are being advanced. All such movements and groups are exercising some form of self-governance that is usually informal and cannot be adequately identified or understood through ideas of citizenship, civil society, or public administration. Accordingly, the governance category of ‘affected people’ can only be examined in the light of this diversity of claims and situations.

‘Affected people’ and the World Bank

In development context the term ‘affected people’ means at least two things: the *fact* of being (potentially) affected by a given development intervention; and a specific *governance category* used by the IFIs. In case of the World Bank, the idea of affectedness first came from the civil society organisations (CSOs) active in late 1980s. At the time, CSOs mobilised against some controversial projects funded by the Bank, such as Polonoroeste in Brazil³⁵ and Narmada in India³⁶ in order to show the negative consequences of the Bank’s funding on the local populations. The idea of affected people originally employed by the CSOs merely attempted to register the very fact that such negative effects existed³⁷. Over time, the Bank has recognised affectedness as a relevant factor in its decision-making, and endowed it with some normative content. Eventually, the fact of being affected led to certain entitlements in terms of project consultations, disclosure and grievance, as well as ability to file complaints in front of the Inspection Panel. However, the two categories are not identical. That is because the Bank prioritises certain facts of affectedness over others, and in doing so, it grants governance entitlements to some affected people, but not to others. For instance, only the people who suffered ‘adverse material harm’ as a cause of the Bank’s non-compliance with its policies can make complaints to the Panel.³⁸ As a result, a number of cultural, social and inter-generational effects are currently excluded from the Panel’s understanding of affectedness³⁹.

Since the late 1980s the Bank has taken several significant steps in creating governance entitlements to people affected by its projects. Over the years, the so-called ‘safeguard policies’, especially those on the Environmental Impact Assessment (EIA)⁴⁰, Indigenous Peoples⁴¹, Involuntary Resettlement⁴² and project supervision more generally⁴³ introduced a range of entitlements that varied depending on the issue area. For example, the EIA policy would set out some general requirements for consultation, whilst the safeguards on Indigenous Peoples would require for the Bank to ensure a more explicit ‘broad community support’. The Inspection Panel, established in 1993, issued a number of reports that fostered institutional learning in this area⁴⁴. In 2015 the Bank has launched the Grievance Redress Service (GRS), an internal

‘problem solving’ mechanism for addressing grievances suffered by affected people⁴⁵. It enabled affected people to seek faster remedies, without triggering the fully-fledged investigation by the Panel. The aim was to create further opportunities for review, which would be more accessible to affected people than the procedure in front of the Panel⁴⁶.

The emphasis on ‘affected people’ is also one of the landmark changes coming out of the Bank’s most recent reform that started in 2012 and led up to the Environmental and Social Framework (ESF)⁴⁷. The ESF makes a distinction between three main governance categories: a) stakeholders; b) affected parties (or people); c) vulnerable and disadvantaged persons. The first category involves various ‘interested parties’, including NGOs and lobby groups that might have a stake in the project outcome⁴⁸. The second category is a loose group of people who will (potentially) experience consequences of a project (both negative and positive)⁴⁹. The third category is a sub-category within the ‘affected people’ category, focusing in particular on those persons who are likely to remain outside the consultation process, unless they are specifically included in it (disabled persons being a clear example of a group falling within such a category)⁵⁰.

If compared to the previous policies, the ESF expands governance entitlements to all three categories identified above. For instance, (potentially) affected people now have to be included in the project decision-making process as early as possible, instead of in the advanced stages of project appraisal⁵¹. Also, any significant change of circumstances and/or project plans is supposed to trigger the repeated consultation and/or access to project grievances⁵². No comparable requirements exist in the current safeguard policies. Altogether, these developments constitute an elaborate and comprehensive policy framework within the Bank, which is open directly to affected people, and which creates concrete entitlements for them to take part in the governance of development projects.

However, if examined more closely, this governance framework based on affectedness relies heavily on the will of decision-makers, i.e., above all, the Bank and its borrowers. Firstly, that is because there is a lot of uncertainty about how to ascertain the categories of affectedness in practice. For instance, many

governments and CSOs in the recent consultation over the Draft Guidance Notes⁵³ voiced concerns about identification of groups that fall under the various categories noted above. The ESF gives us guidelines about some instances of affectedness (mainly related to land⁵⁴ and/or indigenous peoples⁵⁵), but consultations show that many other provisions remain vague and in need of further clarification.

When asked about this⁵⁶, the drafters of the ESF and the Guidance Notes repeatedly pointed out that development projects are too diverse, and that the identification exercise of affected people is inevitably contingent on the circumstances of a particular project⁵⁷. Nonetheless, it can be argued that such contingency-induced open-endedness of the concept is also one of the reasons why affectedness is so closely 'tied' to the will and agenda of decision-makers. That is because the more open-ended is the category of 'affected people', the more discretion both the Bank and the borrower have to reinterpret and/or deny the entitlements (such as participation in decision-making process or access to project-related information), depending on their political priorities. Indeed, as argued by Chatterjee, entitlements do not function in the same way as rights, nor do they accord the same level of legal certainty and/or protection as rights do.

In practice development planning is also a lengthy administrative process, which treats affected people as 'population groups' rather than rights' bearers⁵⁸. Usually, the borrower hires external consultants to conduct the study of environmental and social impact assessment (ESIA), which includes consultations with potentially affected people, which then leads to the preparation of project implementation plans⁵⁹. In the meantime, the Bank has to make sure that all the requirements set out in its policies are adhered to by the borrower and its consultants; and that all the environmental and social concerns, especially those voiced by affected people, are well represented in various implementation plans and in practice.

The nature of this process becomes apparent by looking at concrete examples. For instance, in the project aimed to increase water supply to Nairobi (Kenya), people making a complaint to the Panel (the requesters) and living in the water catchment area 'were not aware of the Project, even after construction has started'⁶⁰. In response to this, the Panel commended a number of consultation meetings that were put

in place by the project planners and a number of people that attended them⁶¹, without, however, questioning the substance and/or representativeness of these meetings, nor their outcomes. Similarly, the lack of written responses by the project implementing agency was not seen as problematic by the Panel⁶². This example and others below show that in practice affected people are often treated as statistical units whose engagement is valid to an extent that it fulfils the administrative requirements of the project. This makes the entitlements of affected people extremely similar to that of population groups, i.e. their chances of being heard and their ‘bargaining position’ is above all contingent on a good relationship with project administrators.

It is also notable from this example that the principal body ensuring interpretation and application of the safeguard policies is the Inspection Panel. The Panel has made some important claims about the standards of good environmental and social practice in development, including the treatment of affected people⁶³. The Panel has also been called a ‘citizen-driven mechanism’⁶⁴, based on the fact that its investigations are always triggered by the local people who consider themselves to be affected; thus reinforcing the entitlements accorded to them by the Bank⁶⁵. Indeed, without the existence of the Panel, entitlements to affected people would be but hollow commitments without tangible mechanisms of ensuring their application in practice.

At the same time, the Panel remains constrained by the fact that it is funded by the Bank⁶⁶, and that it is only directly accountable to the World Bank’s Board of Directors⁶⁷. Because of that, its investigations are always attuned to the discursive climate and practices of the Bank. For example, in the recent case in Mongolia the complaint concerned the expansion of an existing coal mine, which had already caused various health, environmental and social problems⁶⁸. Amongst other things, the requesters complained about the Bank disregarding viable alternatives to the project. In response to this, the Panel accepted that the ‘analysis of alternatives is outside the scope of the [cumulative impact assessment]’ funded by the project.⁶⁹ Therefore, the Panel engaged with the negative effects of the project assuming that the expansion of the mine cannot be questioned, and that the Bank’s role is merely to ‘ensure good

consultation practice within the framework of the Bank's policies'⁷⁰, rather than to prevent concrete and immanent harm to the affected people.

In this and other similar examples, the affected people could exercise their entitlement to file a complaint, but they could not demand for the least harmful alternatives to be prioritized over development 'solutions' chosen by the government. Importantly, this observation is not meant to criticize the Panel for its approach or faulty reasoning. It is meant to emphasise that the institutional design of the Panel's review process relies heavily on the decisions already made, and as such, it 'ties' affectedness to the existing development goals and priorities. Therefore, whilst many affected communities were able to benefit from the Panel's procedure, the solutions to their problems were always constructed on the Bank's own terms.

In that sense, the 'success' of communities engaging with the Panel tends to be 'temporary and contextual', as is aptly put by Chatterjee⁷¹. It is 'temporary' because every remedy put forward by the Panel is limited to the stage of decision-making during which the complaint was launched. There are no guarantees of future entitlements, and the complaint can be readily deferred under the excuse that the Bank and the borrower will do better in the future. Hence, in Mongolian saga of complaints, the Panel refused to continue several investigations based on the fact that the 'quality of the studies can only be assessed after the final draft is available'⁷² (but not as a part of the complaint). Similarly, in Kenyan case, the related 'projects, which the Bank has to date not committed to support, would require their own assessments'⁷³. Indeed, promises are often made by the Panel and the Bank's planners to ensure better treatment of affected people in the future. However, these promises are entirely discretionary. Neither the management of the Bank nor the Panel can provide *guarantees* to affected people about decisions that will be made after the Panel issues its report; or decision beyond the official completion date of the project in those cases where the promises are being monitored by the Panel. Overall, this exposes the strictness of an 'institutional frame' in which the Panel operates, and how much the time span of affectedness is confined to the decisions made by the Bank and its borrowers.

Despite all these shortcomings, the expanded scope of participatory entitlements introduced by the ESF is likely to further enhance the role of the Panel⁷⁴, and to instigate more attempts from the grassroots to channel their claims by using the affectedness framework. It is therefore crucial to try and understand what are the gains and the risks of positioning resistance under the World Bank's category of 'affected people'.

Affectedness as a space for resistance?

Advantages

On a positive side, the affectedness paradigm creates some promising opportunities for bottom-up governance. It offers a clearly recognised route of communication with decision-makers. If we accept the concept of political society by Chatterjee, such an institutionalised route might come across as a welcome reinforcement in the struggle of the grassroots movements. For example, requesters concerned with the road infrastructure project in the Democratic Republic of Congo (DRC) complained about gender-based violence, poor treatment of workers and complicity of military personnel in violence against the local groups. As a result of this complaint, the Bank committed to changing its supervision practice in a way that would prevent further misconduct by the employees of private contractors and the military⁷⁵. Hence, in specific cases like this one, affectedness might help local communities to be heard by the state authorities and/or other powerful actors, such as the private developers.

Affectedness also generally provides opportunities for the people to become beneficiaries of a given project, because it might lead to new beneficial components being added to the initial project design. In Kenyan case, the Panel uncovered that implementation plan of the new forestry law supported by the World Bank did not take into sufficient consideration the land rights of indigenous peoples. Here, the involvement of the Panel nudged the Bank to enter into further dialogue with the government of Kenya about the new strategies of recognising indigenous land claims within the designated forests. Hence, if taken seriously, affectedness paradigm can create a possibility for grassroots to influence development of a specific sector, area or industry in a given society.

Even in more openly adversarial situations, where the prospects of a mutual agreement between decision-makers and affected people are slim, affectedness can aid the mobilisation of resistance. Arguably, it can prevent communities from forcefully trying to protect their habitat, be it through a one-off act of resistance such as setting fire to the coal mine in Ecuador⁷⁶, or through more widely spread resistance efforts such as the attempts by local communities to sabotage oil pipelines in the Niger delta⁷⁷. In contrast to such radical measures, affectedness indicates if not an assurance, then at least a possibility of constructive dialogue and outcome. Above all, a structured, institutionalised route for inclusion created by affectedness arguably nourishes the faith of local groups that there exists a possibility of a fair and peaceful resolution. This, in turn, diminishes the chances of open violence and further marginalisation of certain voices.

Co-optation

Nonetheless, there are also issues and dangers for the grassroots organisations to cast themselves as ‘affected people’. Some of the issues stem from the fact that affectedness as a governance category is also a strategy of institutionalisation for the IFIs. As discussed previously, resistance tends to be informal and rely heavily on the personal trust, shared values, collective identity and also shared material space (such as land, housing, equipment). Affectedness, on the other hand, helps to ‘translate’ this informal logic in a way that fits the controlled, hierarchical and abstract logic of financial institutions and their functioning.

A helpful distinction in that regard is made by Deleuze and Guattari⁷⁸ who differentiate between rhizomic and arborescent assemblages⁷⁹. The former are fluid social gatherings, without a determined structure, decentred and adaptable. Potatoes have rhizomic structure in the natural environment. Arborescent assemblages on the other hand are rigid, hierarchical, solidly built social organisations that rely on a clear internal structure: like trees. They are less adaptable but more predictable and are organised around a central ‘trunk’, i.e. a clearly identifiable organisational and ideological core. This distinction captures some of the core differences between the two types of social dynamics (the one of resistance, and that of the IFIs). Horowitz uses this distinction in her work that examines the relationship between the grassroots

and UNESCO⁸⁰. In particular, she helps us to understand why co-optation is highly likely to occur in the situations where ‘rhizomic resistance meets arborescent assemblage’⁸¹; that is, where local grassroots organisations choose to cooperate with international institutions such as UNESCO or, indeed, the World Bank.

According to Horowitz, even powerful arborescent institutions such as IFIs might seek to co-opt resistance claims, in order to benefit from the social legitimacy and authority that grassroots carry with them as rhizomic assemblages of society. For instance, in a project involving indigenous people in Cambodia⁸², the World Bank had to show a ‘broad community support’ of the local communities that would benefit from the project in order to legitimise its intervention. However, communities that took part in the consultations, as well as listing their development priorities, expressed a range of concerns about the project. Their core concern was to prevent the sudden influx of non-indigenous settlers in their lands. Nonetheless, such participation of indigenous groups was used by the Bank to justify and legitimise the controversial outcomes of the project, which facilitated the in-migration to indigenous lands and subsequently ‘outnumbered and outvoted’ indigenous peoples in the local political arena⁸³. This example is in line with the Horowitz’s finding that ‘often the established [arborescent] institution will attempt to neutralise opposition by providing carefully controlled opportunities for challengers to express concerns within the institution’s own structure’⁸⁴.

Horowitz shows us that co-optation can also become an issue in situations where, at least on the surface, international institution and the grassroots share the same objectives. For instance, in her case study both, UNESCO and the grassroots, were concerned with a conservation of a particular coral reef in New Caledonia. Nonetheless, the social movement protests against coastal water pollution was co-opted by UNESCO, because UNESCO promised to protect the coral reef by designating it as a World Heritage site, without however having any real political or institutional power to stop the pollution. This detracted valuable resources from the local movements, mainly by convincing their leaders to change tactics from public protests to more formal means of ‘co-managing’ the site⁸⁵.

There are, however, some crucial differences between UNESCO and the IFIs, which create greater threats, but also more opportunities for the grassroots. On the one hand, the IFIs can furnish more protection to the local groups and help to advance their objectives, because they have more financial resources and power to do so than, for instance, UNESCO. On the other hand, IFIs' arborescent structures are also more able to co-opt resistance efforts than UNESCO, because their objectives are less likely to align with those of affected people. This is visible from the aforementioned mining infrastructure support project in Mongolia⁸⁶, where one of the areas potentially affected by the project was Lake Baikal, which also had the status of the World Heritage site. The preservation of the lake ecosystem was amongst the core preoccupations raised by the affected people in this case. Here, the World Bank had the power to exert influence on decision-making by the borrower, thus ensuring that the government takes notice of the site's World Heritage status in all the feasibility studies concerning the expansion of mining sector in the surrounding area. However, since the ultimate aim of the World Bank was to support development rather than to ensure conservation, the Bank was unwilling to go as far as to advise the government to exclude Lake Baikal from the project affected area altogether. As such, development priorities of the Bank trumped the conservation objectives of the affected groups. Furthermore, the involvement of the Bank in this project provided the government of Mongolia with an implicit international stamp of approval to create some environmental risks to the ecosystems surrounding Lake Baikal.

Altogether, these examples show that grassroots movements face a difficult dilemma when they consider whether to cast themselves as 'affected people' or not. If they choose to cooperate with the World Bank and embrace its affectedness paradigm, it significantly increases their chances of being heard by other powerful parties, such as the state and/or private investors. However, such choice might come at a high price. Once they opt for institutionalised cooperation rather than the self-standing resistance, grassroots risk being 'subsumed' as a 'tiny element at the very bottom of the giant hierarchical assemblage, with no power to address [exploitative practices]'⁸⁷, as indeed happened in the consultations over the World Bank's projects discussed above.

Political closure and limited agency

A closely related cluster of issues with the affectedness paradigm concerns the type of *agency* that is created by this category. Here, a convincing criticism at a theoretical level is advanced by Matt Whitt, whose argument is addressed not specifically against the use of affectedness by the IFIs but rather the very idea of the ‘all-affected principle’ in the theoretical debate about democracy⁸⁸. Whitt has a problem with this principle as an organising device of democratic governance at a global level, because it forecloses any discussion and/or contestation about who should be included and/or excluded from the demos in the first place. Under this principle people cannot actually choose whether or not they want to be a part of a group; also whether a given decision that makes them ‘affected’ was necessary to begin with. Instead, they are grouped together into a collective entity through external circumstances, following the interests and considerations of the more powerful decision-makers. For Whitt, ‘affecting and being affected are both political actions’⁸⁹ – not some external, self-standing ‘feature of the world’⁹⁰. All-affected principle, crucially, portrays them as somehow pre-political; i.e. as a given (an objective fact) rather than posited (a contingency created through subjective reasoning). According to Whitt, all-affected principle naturalises the decision itself, and at the same time renders invisible the exercise of authority involved in a decision to engage in decision-making. In Whitt’s own words, all-affected principle ‘bestows the prerogative to identify “constituent power” [of affected people] on the most powerful economic actors that are most likely to affect others’⁹¹.

Reasons for such theoretical criticism is visible in the World Bank’s use of affectedness paradigm. Generally, all the key decisions about development interventions are made by the borrowers, in close negotiation with the Bank, private investors, and other development partners⁹². All the relevant impact assessments, plans and related consultations follow from such key decisions⁹³. Here, as explained by Whitt, the act of (potential) ‘affecting’ goes first, whilst affectedness follows suite. The key decisions about scope, reach, location and type of intervention are simply not in the picture within the discussion about the entitlements of affected people, but in the a-priori, supposedly pre-political stage of ‘affecting’.

Such governance framework has no identifiable ‘constituent moments’ that can be challenged or scrutinised⁹⁴. At no point in the process of project negotiations the groups of affected people are given the possibility to question the general contours of development intervention and whether or not they wish to belong to this group. The entire process flows from a certain inertia of decision-making ‘cycle’: from an identification of development ‘problem’, to a proposed approach how to resolve it, to an implementation of development ‘solutions’. Even though according to the provisions of the ESF, affected people ought to be included in this cycle as early as possible, usually the very creation of the decision-making ‘cycle’ and particularly the construction of ‘problems’ to be resolved happen before any process of inclusion can be initiated. Hence, the boundaries of affectedness in each project are drawn by a straightforward, top-down exercise of authority. Understood in this way, affectedness becomes a strategy of closure that justifies exclusion and the exercise of political authority, rather than a category that helps to challenge it.

Whitt’s theoretical challenge seems valid and important, but more so as a warning, rather than a final verdict about the emancipatory potential of affectedness paradigm. In practice, it matters a great deal whether the (potentially) affected group has an agency to begin with, prior to any development-related decisions had been made. In groups with a strong shared identity, affectedness paradigm merely helps to channel the claims of an already existing collective entity. It does not create the agency nor its social or political foundations. If, however, the only factor that connects the members of a group is the common threat and/or opportunity created by development project, then they might acquire an agency – albeit a very limited one – specifically through engaging with affectedness paradigm and related dealings with decision-makers.

The stronger the pre-existing bond within group, the less such groups depend on the willingness of decision-makers to include them into the category of ‘affected people’. To the contrary, a group with a strong pre-existing agency would be able to challenge the decision of ‘affecting’. They can do so, for instance, by bringing the claim in front of the Panel, or by asking the relevant domestic institutions to

revoke a license that enabled development activities in the first place⁹⁵. In other words, the pre-existing capacity and willingness to self-govern is not automatically removed by the affectedness paradigm.

This brings me back to the distinction between affectedness as a *governance category*, and as a real-life *fact*, which results from decisions about development interventions⁹⁶. There is also a third way of looking at affectedness, convincingly advanced by Josh Brem-Wilson in his contribution to this volume⁹⁷.

According to him, affectedness is about contesting and thus expanding political space, rather than simply accepting a one-way exercise of authority by global governance institutions. Thus, by accepting the role of ‘affected people’ social movements enter into the normative space in which they can demand (rather than waiting ‘to be invited’) for their agency to be recognised and respected in the relevant decision-making process. Brem-Wilson’s account portrays affectedness in a more positive light; the one that sees affectedness as a way of contesting and thus opening up the political discourse, rather than closing it, as was argued by Whitt. Arguably, because the affectedness paradigm in global governance is quite recent, its exact implications and content remain unsettled. Its emancipatory potential will be defined through its use, interpretation and application in practice.

The ‘grammar of modernity’

The final challenge associated with affectedness has to do with its role in creating a conceptual space for institutional discourses to meet alternative viewpoints and discourses. As was argued in the beginning, grassroots resistance usually challenges the logic of modern capitalist societies and their ‘totalizing, teleological, universalizing, logocentric, anthropocentric ... forms of knowledge production’⁹⁸. IFIs on the other hand, tend to organise their policies based on the overarching faith in a linear progress, and are often pioneering exactly the kind of modern outlook that is criticised by the grassroots. More than that, they usually seek to convert those practices and spaces that do not fit the modern blueprint, for instance, by converting the neighbourhood of illegal settlers into a new housing development⁹⁹. Affectedness as a category, even if constructed by the IFIs, is meant to facilitate the sensibility of decision-makers to the more critical attitudes. But is it at all possible for these different attitudes to converse? Or is it too naïve to

expect for development professionals to pay genuine attention to bottom-up contestation, and to rethink their plans accordingly?

In my view, it is impossible to give a conclusive answer to this question. On the one hand, the World Bank has shown in the past some capacity to learn from external feedback and adjust its harmful practices. For instance, it created the World Bank Inspection Panel, and it phased out the most radical forms of much criticised structural adjustment programmes¹⁰⁰. The ESF reform too, indicates some change in the policy climate of the Bank towards more inclusion of external voices¹⁰¹. For instance, the ESF officially adopted the requirement of a Free, Prior and Informed Consent (FPIC) by indigenous peoples¹⁰². It also officially accepts that consultations over project negotiations ought to be ‘meaningful’¹⁰³ and that they must be conducted in the ‘culturally appropriate manner’¹⁰⁴.

However, on a more pessimistic side, many of these changes are highly limited. For instance, it has already been clarified by the Bank that a requirement to seek FPIC does not actually give indigenous peoples a veto right to block the project from taking place¹⁰⁵. As mentioned previously, in its projects the World Bank tends to set the parameters of a debate. In that sense, it does seem naïve to claim that affectedness paradigm brought a conclusive shift towards more neutral climate of communication between the development ‘mainstream’ and the alternative outlook that is pioneered by the grassroots resistance.

Probably the most convincing explanation about why the World Bank remains so firmly attuned with certain dogmas of economic development comes from Sarfaty, who did some illuminating ethnographic research about the functioning of the institution¹⁰⁶. According to her, the institutional culture at the Bank is strongly dominated by people trained in economics, which also means that economic ‘interpretative frame’ prevails in its policy-making¹⁰⁷. The key issue with such economic discourse is that it tends to re-imagine the world as a collection of economic actors, interests and transactions, which can then be counted, managed and changed¹⁰⁸. Such economic outlook does seem to follow the modern ‘desire’ mentioned by Ahenakew et al, notably ‘to name the world in order to control it’¹⁰⁹.

The projects that assess feasibility and potential trajectories of economic development, such as the one aiming to expand the mining sector in Mongolia¹¹⁰ or the production of palm oil in Papua New Guinea¹¹¹, are the epitome of such primacy of economic reasoning. They subject all the social interests and forms of knowledge to the economic objectives of the Bank and its borrower, often pioneering the pathway to change that affected people are not willing to accept. In such instances the affectedness paradigm is probably the least likely to enable meaningful dialogue. That is because the arguments in favour of the project are too strongly rooted in the institutional objectives of the Bank and its prevalent culture of economic reasoning. In some other instances on the other hand, such as in the project on sustainable forestry management in Kenya, the conversation with affected indigenous peoples might be less one-sided, because their concern with sustainability is more closely aligned to that of the Bank. Hence, depending on the project, and given a certain alignment between the objectives of the Bank and the affected people, affectedness framework can be useful and amplify the voices that would otherwise be excluded from the conversation.

Who decides who gets affected? The potential role for mediators

It was argued in the preceding parts of this paper that affectedness paradigm harbours the need to reconcile diverging objectives and worldviews of many people involved in development projects. For some grassroots this divergence of attitudes is potentially detrimental; for instance, in case of indigenous groups whose very existence depends on the natural environment that development projects are able to destroy. Other movements, falling under the wider notion of political society by Chatterjee, might take less of an issue with economic outlook of development, because their collective identity and their objectives are more malleable and less averse to the tendencies of modernisation. Either way, most movements seem to understand the need to coexist with modernity – rather than to challenge its very existence¹¹². The core question is how to make sure that the terms of reference of such co-existence are fair and not too biased towards economic, linear notions of progress. Put otherwise, how the idea of affectedness can facilitate the negotiations about development under more balanced terms?

It follows from the analysis thus far that the role of those in charge of negotiations over development projects is extremely important in fulfilling this task. Taking into consideration the concerns about political closure and co-optation, who should be in charge of identifying the affected people, and also guiding the project-related negotiations? The World Bank, if not because of its mandate than *de facto*, often acts as an intermediary in charge of this exercise. However, it has been demonstrated in the preceding parts of this paper that neither the IFIs nor their accountability mechanisms are suitable entities to take on such a role. They themselves have biases of reasoning that are likely to put the grassroots at a disadvantaged position.

Who, then, might be neutral yet capable enough to engage in such a role of independent intermediary? The World Bank's ESF contains a provision in that regard¹¹³, according to which affected people¹¹⁴ should be identified by the 'independent third party specialists'¹¹⁵. In the context of the ESF "[i]ndependent" means that the specialist is able to provide professional, objective and impartial advice, without consideration of future work, and avoiding conflicts with other assignments...¹¹⁶. This is a new provision that is yet to be implemented. Nonetheless, it indicates the general 'direction of travel' in this area of development governance.

In my view, this is a promising direction. It makes it possible to transpose the identification of affected people outside the problematic institutional context dominated by the economic interests of the Bank and the borrower. However, I would argue that by introducing such a provision, the World Bank did not go far enough. To become more transparent and less 'tied' to the will of decision-makers, such provision should emphasise what *kind* of specialists should be appointed to such an important role. For instance, the identification of affected people should be done by someone with certain measure of sensibility to the facets of grassroots movements noted in the previous sections (such as informality, identity claims, and alternative viewpoints). For all the reasons explained above, it would be best to stay clear from the 'established international experts' trained solely in the economic aspects of development.

A similar question about the relationship between political society and relevant administrative authorities was raised by Chatterjee. ‘Who mediates?’ – was his question. Chatterjee’s question also gives us an indication of where to look for an answer to this question. Arguably, the exercise of identifying affected people as well as the relevant stakeholders in a given project should be seen as a part of a political *mediation* process. This can be distinguished from the currently prevalent and more technical exercise of ESIA, which is usually accomplished through scrupulous collection of data and/or abstract analytical reasoning. Mediation appears to be useful in fulfilling this task because it helps to build consensus amongst a wider circle of stakeholders in a more direct and interactive way than the ESIA does. Yet, despite its productive use in other areas of international assistance such as peacebuilding, mediation in development cooperation is usually only invoked *post facto*, that is, when development project causes disagreement and/or another form of social conflict¹¹⁷. However, it is very rarely used as a consensus-building mechanism that helps to create dialogue amongst the Bank, the borrower and the affected people from the outset of the project.

Accordingly, the role of ‘independent third-party specialists’ in charge of identifying affected people could be assigned to trained mediators. This does not mean that all the projects funded by the Bank should be prepared with the help of international experts trained in high diplomacy. To the contrary, in certain instances mediation can also be effective if conducted by community mediators, particularly women, and also with some local background¹¹⁸. Such mediators might not be able to resolve all the issues associated with the affectedness paradigm outlined above. Moreover, the issues and shortcomings of such governance solution should be subject to further research; ideally building on the lessons from the role of mediation in development context thus far. However, the very existence of such an independent mediation framework would go a long way in liberating the notion of ‘affected people’ from some of the biases associated with the World Bank’s decision-making and its top-down tendencies.

The second step of ‘untying’ affectedness from the World Bank concerns the mandate of such potential mediators. Arguably, in order for this role to be successful, the process of mediation should go beyond the

‘constituent moment’ in which affected people are identified. It is difficult to see why mediation of existing or potential conflicts should be limited to the early stages of the project, given that development is likely to cause disruption to the lives of affected people over a significant period of time and on a relatively large scale. Instead, mediation should take place during the entire project negotiations as well as during the implementation phase. The ESF contains provisions that require of the borrower to create project grievance mechanisms, which are meant to give a chance to affected people to raise any issues that they see about the implementation of the project¹¹⁹. However, arguably such grievance mechanisms function predominantly as troubleshooting devices for the borrower, rather than a neutral space for reconciling political disagreements, which is the key reason for invoking mediation in this context.

The third important element of ‘untying’ affected people from the will of decision-makers is probably the most difficult one to address¹²⁰. It concerns the fair practices of representation *within* a given community, as well as alignment of interests of multiple communities affected by the same development project.

Whilst many people could fall under the category of ‘affected people’, they might not necessarily have a consolidated view about the best ways to go forward with a given project. This lack of initial consensus can be instrumentalised by the decision-makers and used to justify their exercise of a top-down decision-making authority. Indeed, because resistance movements do not usually have an arborescent structure, functioning under the unified umbrella of affectedness can be challenging for them, because it pushes them to create social hierarchies and to make far-reaching political commitments on behalf of others.

These are potentially difficult challenges, and arguably the third-party mediators, in the process of identifying affected people, would require further guidance on how to identify the specific representatives who are truly able to encourage consensus-building amongst different people affected by the same development project. In this regard, an on-going research about the representation of affected people¹²¹, and particularly the relationship between affected people and NGOs¹²² seem important, timely and of great relevance to future policy guidance in this area.

Mediation is not a panacea that can ensure the resolution of all the conflicts related to a given project. Nonetheless, it could provide a tangible tool for recognising the very possibility of diverging views, and thus taking the need for their reconciliation seriously. That way, the implied biases of affectedness paradigm can be brought into the open and dealt with in a way that shows more respect to the attitudes and concerns of the grassroots.

Conclusion: the story of affectedness in the making

Generally, this paper shows that the content of affectedness paradigm is still in the making. On the one hand, it is an idea that is reshaping global development governance by providing a structural foundation to the agency of bottom-up resistance. It also marks a positive departure from the prevalent governance model that largely disregards the views of local groups. On the other hand, it is increasingly appropriated by the IFIs as a strategy of institutionalisation and possibly co-optation. Moreover, at least in the current governance framework of the World Bank, affectedness is indeed ‘tied’ too strongly to the will of decision-makers. As such, it cannot be praised for its emancipatory potential. It is also difficult to tell for whose benefit this concept currently functions¹²³, and also what might be its effects in the future.

The reason why the notion of ‘tied affectedness’ is important in the conversation about global governance is because it shows the nuanced ways through which institutionalised inclusion can undermine dissenting voices. ‘Tied affectedness’ also stresses the need to address the top-down biases of the affectedness paradigm, and to level the playing field of decision-making by introducing checks and balances into the requirements of inclusion, so that the grassroots can rely on them without also having a fear of co-optation and/or further marginalisation. In this paper I make one suggestion in that regard, notably to involve the third-party mediators in the process of identifying affected people. Arguably, other methods of ensuring more balanced dialogue remain subject to future research.

Bibliography

Afinotan L. A., Ojakorotu V. "The Niger Delta crisis: Issues, challenges and Prospects." *African Journal of Political Science and International Relations* 3, no. 5 (2009): 191-198.

Ahenakew C. V. de Oliveira Andreotti, G. Cooper, H. Hireme, "Beyond Epistemic Provincialism. De-provincializing Indigenous Resistance." *Alternative* 10, no. 3 (2014): 217-231.

Barnstein, M. "Identity Politics." *Annual Review of Sociology* 31 (2005): 47-74.

Brem-Wilson, J. "Legitimizing Global Governance: Publicisation, affectedness, and the Committee on World Food Security" (in this volume).

Cernea, M.M. "The 'Ripple Effect' in Social Policy and its Political Content: A Debate on Social Standards in Public and Private Development Projects." In *Privatising Development: Project Finance Law and Human Rights*, edited by M.B. Likosky. 2005.

Cornwall, A. "Unpacking 'Participation': models, meanings and practices," *Community Development Journal* 43, no 3 (2008): 263-289

de Moerloose, S. "Sustainable Development and the Use of Borrowing State Frameworks in the New World Bank Safeguards." *Law and Politics in Asia, Africa and Latin America* 51, no 1 (2018):53-77.

Deleuze G. and F. Guattari. *A thousand plateaus: Capitalism and schizophrenia*. Minneapolis: University of Minnesota Press, 1987.

Ehrentraut, S. "Decentralization and the promise of indigenous peoples' empowerment: the case of the World Bank in Cambodia." *The Pacific Review* 24, no. 1 (2011): 89-113.

Eslava, L. *Local Space Global Life. The Everyday Operation of International Law and Development*. Cambridge University Press: 2015.

Fenelon, J. V., and T. D. Hall, "Revitalisation and Indigenous Peoples Resistance to Globalisation and Neoliberalism", *American Behavioral Scientist* 51, no 12 (2008): 1867-1901.

Fourie, A. N. *The World Bank Inspection Panel and quasi-judicial oversight*. Eleven International Publishing: 2009.

Hasenclever A., H. Narr, "The dark side of the affectedness-paradigm: Lessons from the Indigenous peoples' movement at the United Nations" (in this volume).

Held, D. *Cosmopolitanism: Ideals and Realities*. Malden, MA: Polity, 2010.

Horowitz, L. S. "Rhizomic Resistance Meets Arborescent Assemblage: UNESCO World Heritage and the Disempowerment of Indigenous Activism in New Caledonia." *Annals of the American Association of Geographers* 106, no 1 (2016): 167-85.

Houghton R. "Looking at the World Bank's safeguard reform through the lens of deliberative democracy." *Leiden Journal of International Law* 32, no 3 (forthcoming).

Humphrey C. “The ‘hassle factor’ of MDB lending and borrower demand in Latin America.” In *Global Economic Governance and the Development Practices of the Multilateral Development Banks* edited by S. Park and J.R. Strand. New York: Routledge, 2015

IBRD [International Bank for Reconstruction and Development], Articles of Agreement, 1987.

Jokubauskaite, G. “Accountability towards Individuals and Communities affected by the World Bank Development Interventions: A Project Law Approach.” PhD diss., University of Edinburgh, 2016.

Jokubauskaite, G. “The Concept of ‘Affectedness’ in International Development.” Paper presented at the European International Studies Association conference ‘New Frontiers in International Relations’, Cardiff University, 7-9 June 2017.

Lewis, K. “Citizen-Driven Accountability for Sustainable Development”. A contribution to Rio+20 by the Independent Accountability Mechanisms Network, June 2012, available at <http://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/publications/CitizenDrivenAccountability.pdf>

Lichtenstein, M. “Mediation and Feminism: Common Values and Challenge.” *Mediation Quarterly* 18, no. 1 (2000): 19

McFarlane C. “Translocal assemblages: Space, power and social movements.” *Geoforum* 40, no. 4 (2009): 561-7.

Morse, B. and T.R. Berger, “SardarSarovar. Report of an Independent Review” (Morse-Berger report), International Environmental Law Research Centre, 1992, available at <http://www.ielrc.org/content/c9202.pdf>

Nanwani S. “Holding Multilateral Development Banks to Account: Gateways and Barriers”. *International Community Law Review* 10, no. 2 (2008): 199-226.

Rajagopal, B. “International Law and Social Movements: Challenges of Theorizing Resistance”. *Columbia Journal of Transnational and International Law*, 41 (2002-3): 397.

Sändig, J, J. von Bernstorff and A. Hasenclever, “Affectedness in International Institutions: Promises and Pitfalls of a rising Paradigm” (introduction to this volume).

Sarfaty, G.A. “Why culture matters in international institutions: the marginality of human rights at the World Bank.” *American Journal of International Law* 103 (2009): 647-683.

Sen, A. *Development as Freedom*. New York: Oxford University Press, 1999.

Schramm, A., J. Sändig, “Affectedness Alliances: Affected people at the centre of transnational advocacy“(in this volume).

Sztompka, P. *Society in Action: The Theory of Social Becoming*. Cambridge: Polity Press, 1991.

Van Putten, G. *Policing the Banks: Accountability Mechanisms for the Financial Sector*. McGill-Queen’s University Press, 2008.

Wade, R.H. “Boulevard of broken dreams: the inside story of the World Bank’s Polonoeste Road Project in Brazil’s Amazon”, Grantham Research Institute for the Environment Working Paper No. 55, August 2011.

Wallbott L., E. Recio, “Practicing Human Rights Across Scale: Indigenous Peoples’ Affectedness and Recognition in International and Latin American REDD+ Governance” (in this volume).

WB [The World Bank] “Environmental and Social Framework” (ESF), October 1, 2018.

WBIP [The World Bank Inspection Panel] (Founding Resolution). IBRD 93-10, IDA 93-6, September 1993; available at <http://ewebapps.worldbank.org/apps/ip/Pages/Panel-Mandate.aspx>.

WBIP, “Consultation, Participation & Disclosure of Information.” Emerging Lessons Series No 4, October 2017, available at <http://ewebapps.worldbank.org/apps/ip/Pages/Home.aspx>.

WBIP, “DRC: High Priority Roads Reopening and Maintenance (2nd Additional Financing)”. Investigation Report, 27 April 2018.

WBIP, “DRC: Transitional Support for Economic Recovery Credit and Emergency Economic and Social Reunification Support Project”. Investigation Report, 31 August 2007.

WBIP, “Kenya: Natural Resource Management Project”. Investigation Report, 22 May 2014.

WBIP, “Kenya: Water and Sanitation Service Improvement Project (P096367) and Water and Sanitation Service Improvement Project – Additional Financing (P126637)”. Report and Recommendation, 29 March 2017.

WBIP, “Mongolia: Mining Infrastructure Investment Support and Mining Infrastructure Support – Additional Financing”. Report and Recommendation, 23 July 2018.

WBIP, “Mongolia: Mining Infrastructure Investment Support and Mining Infrastructure Support – Additional Financing”. Third and Final Report and Recommendation, 13 July 2017.

WBIP, “PNG: Smallholder Agriculture Development Project”. Investigation Report, 19 September 2011.

WBIP, “South Africa: Eskom Investment Support Project”. Investigation Report, 21 November 2011.

Whitt, M. “Democracy’s Sovereign Enclosures: Territory and the All-affected Principle.” *Constellations* 21, no. 4 (2014): 560-574.

Zorilla, C. “The Role of the World Bank in Promoting Sustainable Development in Latin America.” *Michigan State Journal of International Law* 14, (2006): 541-556.

Notes

- ¹ Sändig et al., “Affectedness in International Institutions”.
- ² Cornwall, “Unpacking ‘Participation’” 281.
- ³ The World Bank, “Inspection Panel (Founding resolution)”.
- ⁴ *Ibid.*, van Putten, *Policing the Banks*.
- ⁵ See for instance Fourie, *The World Bank Inspection Panel*, Nanwani “Gateways and Barriers”.
- ⁶ See also Jokubauskaite, “The Concept of Affectedness”.
- ⁷ Rajagopal, “Challenges of Theorising Resistance”; Barnstein, “Identity Politics”; also see Recio & Wallbott, and Hasenclever & Narrin in this volume.
- ⁸ Grassroots resistance differ from NGO work. Whilst there can be significant overlaps between these two groups, there are also significant differences. The two also often work together, with NGOs potentially representing local organisations at various global forums (the World Bank Inspection Panel being one of them). See Schramm & Sändig in this volume.
- ⁹ For instance, WBIP, “Kenya: Natural Resource Management Project”.
- ¹⁰ For instance, WBIP, “Kenya: Water and Sanitation”, Lewis, “Citizen-Driven Accountability”.
- ¹¹ The World Bank (WB), “Environmental and Social Framework” (ESF), Environmental and Social Standard (ESS) 1, ESS5, ESS7, ESS10.
- ¹² Fenelon and Hall, “Revitalisation and Resistance”.
- ¹³ Cernea, “The ‘Ripple Effect’”, van Putten *Policing the Banks*.
- ¹⁴ For instance, as argued by Brem-Wilson, “Legitimising Global Governance”.
- ¹⁵ Sen, *Development as Freedom*.
- ¹⁶ The grassroots resistance to capitalist structures features in most writing on the topic, see for instance Chatterjee, “Politics of the Governed” (Chapter 1). On the idea of ‘social structure’ see Sztomka, *Society in Action*.
- ¹⁷ Ahenakew et al, “Beyond Epistemic Provincialism”
- ¹⁸ *Ibid.*, 217
- ¹⁹ Ehrentraut, “Indigenous peoples’ empowerment”.
- ²⁰ For instance, IBRD, Art 1.
- ²¹ Rajagopal, “Challenges of Theorising Resistance”; Barnstein, “Identity Politics”.
- ²² Barnstein, “Identity Politics” 52-3.
- ²³ Chatterjee, “Politics of the Governed” (Chapter 2).
- ²⁴ *Ibid.* He also called it the ‘normatively nebulous zone’, 50.
- ²⁵ *Ibid.* 56-74.
- ²⁶ *Ibid.* 35-41.
- ²⁷ *Ibid.* 68-9.
- ²⁸ *Ibid.*
- ²⁹ *Ibid.* (Chapter 1).
- ³⁰ *Ibid.* 60.
- ³¹ *Ibid.* (my addition).
- ³² *Ibid.* 53-75.
- ³³ *Ibid.* 75
- ³⁴ *Ibid.*
- ³⁵ On the Polonoeste Road Project, see Wade, “Boulevard of broken dreams”.
- ³⁶ On the Sardar Sarovar project, see Morse-Berger report.
- ³⁷ van Putten, *Policing the Banks*.
- ³⁸ The phrase is from the WBIP Founding Resolution.
- ³⁹ Jokubauskaite, “The Concept of Affectedness”.
- ⁴⁰ WP OP [Operational Policy] and BP [Bank Procedure] 4.01 (past); WB ESF, ESS1 (current).
- ⁴¹ WB OP/BP 4.10 (past); WB ESF, ESS7 (current).
- ⁴² WBOP/BP4.12 (past); WB ESF, ESS5 (current).
- ⁴³ WB OP/BP 10.00 (past); WB ESF, ES Policy (current).
- ⁴⁴ See for instance the WBIP investigation reports such as “DRC: Transitional Support” (on development policy lending), “South Africa: Eskom” (on the use of borrowers’ legal frameworks), “DRC: High Priority Roads” (on development finance in conflict, violence and fragility context); and also a number of cross-cutting reports, such as “Consultation, Participation & Disclosure”, among others.
- ⁴⁵ WB BP “Grievance Redress Service” (past); WB ESF, ES Policy para. 61 (current).

-
- ⁴⁶ The mechanism seems to have achieved its aims. It receives considerably more complaints than the Panel:<http://pubdocs.worldbank.org/en/383781466604694992/GRS-case-log-26-July-2018-v2.pdf>
- ⁴⁷ ESF came into force on 01 October 2018. The framework will apply to the new project approved after this date.
- ⁴⁸ WB ESF, ESS10 para. 5.
- ⁴⁹ Ibid.
- ⁵⁰ Ibid. para 10 (footnote).
- ⁵¹ WB ESF ESS5 para 17, also ESS10.
- ⁵² WB ESF ESS1 para 53, ESS10 paras. 23-5.
- ⁵³ Guidance Notes are explanatory guidelines that are meant to clarify some of the provisions of the ESF to the borrowers. see the current draft on the Bank’s website: <https://www.worldbank.org/en/programs/environmental-and-social-policies-for-projects/brief/environmental-social-framework-guidance-notes-borrowers> (accessed 12 December 2018).
- ⁵⁴ WB ESF ESS5 paras. 4-9.
- ⁵⁵ EB ESF ESS7 paras. 6-10.
- ⁵⁶ In the online consultation platform, see note 53 above.
- ⁵⁷ Ibid., see also WB ESF Guidance Notes (GN) 10.1.
- ⁵⁸ Chatterjee, “Politics of the Governed” 34-41.
- ⁵⁹ This is seen most clearly by looking at the so-called ‘project documents’, especially Project Appraisal Document (PAD), which is available for every Bank-funded project on the Bank’s website.
- ⁶⁰ WBIP “Kenya; Water and Sanitation” para. 64.
- ⁶¹ Ibid. paras. 65-66.
- ⁶² Ibid. paras. 67-68.
- ⁶³ See for instance the reports listed in note 44.
- ⁶⁴ I am grateful to the anonymous reviewer for pointing this out.
- ⁶⁵ Ibid.
- ⁶⁶ WBIP (Founding Resolution).
- ⁶⁷ Ibid.
- ⁶⁸ WBIP, “Mongolia: Mining Infrastructure” (2018)
- ⁶⁹ Ibid. para 53.
- ⁷⁰ Ibid. para 86.
- ⁷¹ Chatterjee, “Politics of the Governed” 60.
- ⁷² WBIP, “Mongolia: Mining Infrastructure” (2018) para. 84.
- ⁷³ WBIP, “Kenya: Water and Sanitation” para 78.
- ⁷⁴ de Moerloose, “Sustainable Development”.
- ⁷⁵ WBIP, “DRC: High Priority Roads”
- ⁷⁶ Reference to incident at the Junin copper mining project in Toisin Range, Ecuador, see Zorilla, “Development in Latin America” 553.
- ⁷⁷ See generally Afinotan & Ojatorotu, “The Niger Delta Crisis”.
- ⁷⁸ Deleuze & Guatarri, *A thousand plateaus*.
- ⁷⁹ An assemblage is a ‘dynamic gathering’ (McFarlane 2009, 562).
- ⁸⁰ Horowitz, “Resistance meets Arborescent Assemblage”.
- ⁸¹ Reference to the title of Horowitz’s paper (ibid.).
- ⁸² Cambodia Rural Investment and Local Governance Project (RILGP), described in Ehrentraut “Indigenous peoples’ empowerment”.
- ⁸³ Ibid. 96
- ⁸⁴ Horowitz, “Resistance meets Arborescent Assemblage”170.
- ⁸⁵ Ibid. 174-81.
- ⁸⁶ WBIP, “Mongolia: Mining Infrastructure” (2018) (note 68)
- ⁸⁷ Ibid. 180
- ⁸⁸ Whitt, “Democracy’s Sovereign Enclosures”. In particular, Whitt argues against an account of ‘all-affected principle’ by David Held, *Cosmopolitanism: Ideals and Realities*.
- ⁸⁹ Ibid. 568
- ⁹⁰ Ibid.
- ⁹¹ Ibid.
- ⁹² See notes 40-43.
- ⁹³ See WB ESF ESS1 for the overview of the entire process.

-
- ⁹⁴ I am grateful to J. von Bernstorff for this insight.
- ⁹⁵ For instance, environmental license was also challenged in front of the High Court in “Kenya: Water and Sanitation” (para. 46),
- ⁹⁶ Section ‘Affected people and the World Bank’ (in this paper).
- ⁹⁷ Brem-Wilson, “Legitimising Global Governance”.
- ⁹⁸ Ahenakew et al, “Beyond Epistemic Provincialism” 218.
- ⁹⁹ For example, see Eslava, *Local Space, Global Life* 264-87.
- ¹⁰⁰ The principle of financing beyond structural adjustment has not been abandoned entirely; it has been transformed and reinvented through Development Policy Financing. The World Bank Operational Manual, ‘BP8.60. Development Policy Financing’ available at <https://policies.worldbank.org/sites/ppf3/Pages/Manuals/Operational%20Manual.aspx> (last accessed on 12 December 2018)
- ¹⁰¹ Houghton, “World Bank’s safeguard reform”.
- ¹⁰² WB ESF ESS7 paras. 5, 24.
- ¹⁰³ WB ESF ESS10 paras 6-7, 22
- ¹⁰⁴ Ibid. paras.10, 22, 27.
- ¹⁰⁵ WB ESF ESS7, GN25.6.
- ¹⁰⁶ Sarfaty, “Why culture matters”.
- ¹⁰⁷ Ibid. 677-80.
- ¹⁰⁸ Ibid.
- ¹⁰⁹ Ahenakew et al, “Beyond Epistemic Provincialism” 217.
- ¹¹⁰ WBIP, “Mongolia: Mining Infrastructure” (2017 & 2018)
- ¹¹¹ WBIP, “PNG: Smallholder”.
- ¹¹² Ahenakew et al, “Beyond Epistemic Provincialism” 217; Chatterjee, *Politics of the Governed*; Rajagopal, “Challenges of Theorising Resistance”.
- ¹¹³ Note that this provision applies only to the projects under the highest category of risk; WB ESF ES Policy para. 33.
- ¹¹⁴ Alongside the plan of stakeholder engagement, see WB ESF, ESS10.
- ¹¹⁵ WB ESF ES Policy para.33; ESS1 para. 25, 33; ESS7 para. 24, ESS10 para. 12.
- ¹¹⁶ WB ESF ESS1, GN25.2.
- ¹¹⁷ Since 2015 such role is *de facto* fulfilled by the GRS (note 45 above).
- ¹¹⁸ This also has a strong gender dimension, see generally Lichtenstein, “Mediation and Feminism”.
- ¹¹⁹ WB ESF ESS10 paras. 26-7.
- ¹²⁰ I am grateful to Jan Sändig for drawing my attention to this particular issue.
- ¹²¹ For example, see Wallbott & Recio, “Indigenous Peoples’ Affectedness and Recognition”.
- ¹²² For example, see Schramm & Sändig, “Affectedness Alliances”.
- ¹²³ For a more sceptical outlook, see Hasenclever & Narr, “The dark side of affectedness”.