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ORAL HISTORY PROGRAM

Transcript of interview with

EDITH BROWN WEISS

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Interview by: Charles Ziegler

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ZIEGLER: Today is April 14, 2010. My name is Charles Ziegler, a consultant for the World Bank Group Oral History Program. I am in the office at the Georgetown University School of Law of Mrs. Edith Brown Weiss. In September 2002 Ms. Brown Weiss was appointed to the Inspection Panel of the World Bank. From 2003 to 2007, she was president of the Inspection Panel, an appointment at the vice-presidential level.

Well, I'm so glad you could make time to participate in the World Bank Group Oral History Program. We will start with some simple background questions. When and where were you born?

BROWN WEISS: Before I answer that, I just want to say that I am glad that you are doing the oral history. I think it's an important component of the World Bank's history. So I am delighted to meet you, and delighted to be able to give this interview.

I was born in 1942, in Oregon.

ZIEGLER: Please relate something of your early life and education, just for background and to set the context.

BROWN WEISS: I grew up in Oregon. I went to Stanford University as an undergrad, where I majored in political science. Then I went to Harvard Law School, where I got my law degree. After that, I went to work in a very small, five-person [legal] office at the U.S. Arms Control and Disarmament Agency, engaged in treaty negotiations and other issues.

ZIEGLER: That was in Washington?

BROWN WEISS: In Washington D.C. Thereafter I left and I went to the University of California at Berkeley and received my Ph.D. in political science, with an emphasis on international relations and international organizations. Thereafter, I went to Columbia University as a research associate and finished my Ph.D., then came to [The] Brookings [Institution], where I was a research associate and worked with others on a book which we published [Brown, Seyom, Nina W. Cornell, Larry L. Fabian, Edith Brown Weiss. *Regimes for the Ocean, Outer Space, and Weather*. Washington, D.C: The Brookings Institution, 1977]. Thereafter, at the initiation of Princeton University, I went to Princeton as an assistant professor of civil engineering and politics in a joint appointment between the Department of Politics and the

School of Civil Engineering, specifically in water resources. From there I came to Georgetown University Law Center as a member of the faculty.

Since I've been at Georgetown I have had two leaves of absence. The first was to set up the International Law Division at the United States Environmental Protection Agency, where I was the Associate General Counsel for International Law, and the second one was for the Inspection Panel at the World Bank.

ZIEGLER: To place this interview in context, could you please briefly outline the purposes and procedures of the Inspection Panel?

BROWN WEISS: The purpose of the Inspection Panel is to provide accountability for the activities of the World Bank and specifically for World Bank management and staff compliance with its policies and procedures. The broader purpose, I think, is to give confidence, in the eyes of the affected people and civil society, in the eyes of governments and in the eyes of the private sector, in what the World Bank does. And the third purpose— more broadly—is to help make World Bank development assistance effective.

ZIEGLER: You were appointed to the Inspection Panel in September 2002. What were the circumstances of your selection?

BROWN WEISS: You had to apply, and from that, a group of internal officials within the Bank picked a smaller group of applicants, with whom they conducted interviews.

ZIEGLER: What prompted you to apply?

BROWN WEISS: I had been interested in the Inspection Panel for years, even before it was established. I teach international law here and I always teach a little bit about the World Bank and the International Monetary Fund, and I have usually included discussions on the Inspection Panel. I have known most of the legal counsels of the World Bank over the years, and I have had a number of interactions with them, most importantly Ronnie [Aron] Broches and Ibrahim [F. I.] Shihata. So I was certainly conscious of all that the World Bank does, and particularly of the activities of the Inspection Panel.

ZIEGLER: I met Mr. Broches a number of times. I'm sure you know he was at Bretton Woods, too, on the Netherlands delegation.

BROWN WEISS: Yes.

ZIEGLER: You became Chair of the Inspection Panel in August 2003. What were the circumstances of your selection to that post?

BROWN WEISS: The other members of the Panel selected me.

ZIEGLER: And that's just . . .

BROWN WEISS: I believe it has to be approved by the Board of Executive Directors. When I came to the Panel, I didn't realize that within a year I would be the Chairperson of the Panel. I was very fortunate in having the support of Georgetown University Law Center, because the normal leave was two years, and they gave me a four-year leave of absence for the term of my service as Chairperson. I am really very grateful to Georgetown Law School, and to the University, for doing that.

ZIEGLER: The World Bank was the first among multilateral global organizations to establish a body such as the Inspection Panel. Its creation came as a response to the concerns of Bank management with the efficiency of the Bank's work, which coincided with, and were influenced by, increasing emphasis by sources inside and outside the Bank, and what was perceived as the Bank's inadequate attention to the standards reflected in its rules. Could you please elaborate on the substance of these concerns, as you saw them, during your tenure on the Inspection Panel?

BROWN WEISS: I think the existence of the Inspection Panel helped management and staff to try and be sure that they complied with the policies and procedures of the Bank. Sometimes there can be pressures to take shortcuts, or sometimes you may not be aware of all that you should be doing on that, or the resources . . .

ZIEGLER: Or the safeguards.

BROWN WEISS: . . . or the resources may not fully be there and you have to allocate. What the Inspection Panel did, in that sense, was to serve as an important vehicle for helping to ensure that the Bank management and staff followed their policies and procedures.

I think it also served an extremely important function of providing to the outside world, and particularly to affected communities, a place where they could come and voice their complaints. Sometimes those complaints were justified, and sometimes they weren't, but at least there was a place that they could come to have those concerns looked at and that they thought was independent, and acted with integrity and impartiality.

In my view, that accountability is essential for more effective development. It's also essential to have the poor, affected communities whom you are trying to help have some kind of a voice, or a forum where they can have a voice if they have concerns, or to voice their concerns to the Inspection Panel in this case.

ZIEGLER: In your experience, were requests for inspection—which is how the whole process gets going in the first place—were requests for inspection generated primarily by international NGOs [non-government organizations], or were they generated by a significant proportion, if not a majority, of indigenous individuals or organizations?

BROWN WEISS: During my tenure they were generated by local people in local organizations.

In some cases there was assistance provided, or networking provided with an international NGO, but the origins—I was struck by this—the origins really did come from the local people who were concerned, and from local organizations.

In Mumbai, in the Mumbai Urban Transport Project request and subsequent investigation, those making the request were entirely local people in the local communities who expressed their concern. In the case of the Pygmies in Congo—coming from the network of local Pygmies in Congo—it was again the Pygmy organizations that expressed their concern. They then had some communication with several international NGOs, but the request really came from the Pygmies.

ZIEGLER: That's interesting, because sometimes you get the impression that the international NGOs go "stirring things up."

BROWN WEISS: Right.

ZIEGLER: But this isn't the case here.

BROWN WEISS: It is not—that was not my experience from any of the ones that we dealt with.

ZIEGLER: Please describe some of the internal dynamics of the Inspection Panel during the course of conducting a typical inspection.

BROWN WEISS: Let me start from the request, if I may. The Panel receives a request and then registers the request. The Secretariat staff members are in consultation with the Panel Chairperson about this. Registering is a Panel decision, and we would register all requests unless a request was clearly outside of our mandate, namely, it dealt only with procurement, or didn't at all relate to a World Bank project or program.

ZIEGLER: Did you get many of those?

BROWN WEISS: No. There were only a handful that came through under my tenure. Then the next step after registration was to determine whether the request was eligible for an investigation. If it was, and management approved on a non-objection basis, we proceeded to the investigation.

The investigation was a very thorough process. It needed to be because everything about the Panel is transparent. You have to be able to document everything that you find and conclude. The Panel did staff interviews, together with the Secretariat personnel, and . . .

ZIEGLER: When you say the Secretariat personnel, the Secretariat of the Inspection Panel?

BROWN WEISS: The Secretariat of the Inspection Panel. It's very small, as you know, and

there were usually one or two people assigned to a particular request when it came in, and to an investigation. And the staff interviews were always conducted in private and alone for each person. They were taped, and the individuals were always told that they could have access to the tape, to make sure that everything that they said was correct, because we were really interested in making sure that everything was correct. Sometimes when people are in that situation, they might not remember something or whatever, so they could come back and add to it; and the tapes, after a period of time, were destroyed. That's to give time to make sure that everything is right, and then if people question things, to have documentation, and then thereafter to ensure their confidentiality.

The second thing we did was to look at documents within the World Bank itself, and that meant having access to files. We would always make arrangements for access with the Region, or wherever the documents were located. Sometimes there was a special place where we could go and look at the files. The arrangements varied, depending on the Region and depending on the investigation. We took a very careful look at those files. That's also a tricky process because when you look at one set of things, you realize there are some documents there that are mentioned, but they aren't what's been made available. So it's a very tricky process to track everything down and to make sure you have tracked everything down, and . . .

ZIEGLER: A lot of it depends on how assiduous the Region is in keeping their records, too. Not everybody does a good job of it, in my experience.

BROWN WEISS: That's also true. And then we also read all the documents related to the project or program more generally. We hired outside experts that ranged from one to three, depending on what the issues were. Often it was an environmental assessment issue, or it might be resettlement issues, and we hired Michael [M.] Cernea for the . .

ZIEGLER: He's been interviewed.

BROWN WEISS: . . I know he has—for the Mumbai investigation—or it might be indigenous peoples issues. Those were the most common issues, but there were others that were involved too, for example poverty reduction, where we hired a very good economist, and in one case, a financial accountant.

The criteria that we looked at in selecting the experts were, who really are the best in the world on this issue, who are really world class, and who wouldn't be perceived as being compromised by having worked for the World Bank for a very long period of time, or only for the World Bank, or who are currently employed as consultants for the World Bank. It's both the reality of impartiality as well as the perception of impartiality that is important. So we looked for competence, and since it's the World Bank—and this was my own personal view—we had to go for the best. The World Bank staff and management were entitled to make sure that any experts that we hired were the best. That meant that we did not keep a defined roster of experts, and draw only upon the list. But we looked at each case and said, "Who is the best person for this whom we could really hire?"

The experts normally participated in the interviews, if they were able to, and then after the interviews, we went to the field. In the field we met with the top government officials and met with the affected people—we usually met with the affected people first, and then the top government people.

ZIEGLER: That's what I've noticed in many photographs in the Annual Reports of the Inspection Panel. I've seen photos of you in the field, and you and your colleagues, and you really get down and dirty, so to speak . .

BROWN WEISS: Absolutely.

ZIEGLER: . . and get right to the heart of the matter.

BROWN WEISS: We went wherever we needed to go in order to find out what was happening. When affected people thought we should look at things, we made sure that we did look at those things. We did not only look at what the affected people wanted us to look at. If the Bank wanted us to see certain things out of the Regional Bank office, we made sure that we did that also. If the private sector was involved—for example in forest management cases—then we made sure we talked to the private sector. We talked to NGOs in the field, and if people led us to other people who might have interesting information, we pursued that also, and we tried to get documentation in the field. We also did interviews in the field . .

ZIEGLER: So you are trying to be as very thorough as possible.

BROWN WEISS: . . and we taped those. So the notion was to be thorough, and to do it in a very, if I may use the term, scholarly way, which meant you document everything that you have done, and you do the investigation in a systematic, comprehensive way. We would always meet during the field visits, just as World Bank staff do during a mission, and we would ask what we have learned, where the gaps are, what we still need to find out, what we need to verify, what we haven't done. We did that regularly, when we were on mission in the field.

ZIEGLER: And once the field work was over, you came back to headquarters and proceeded to deliberate then, presumably?

BROWN WEISS: Yes, there are usually other things that needed to be researched at that point, that had come out of the field visit, and sometimes we did more than one field visit. The investigation might require two or three field visits, and there might be more interviews that you needed to do as a result of having been in the field. So it was a process until you got the job done right. And then we deliberated. A draft report was written with the help of very fine Panel staff, which we deliberated on heavily, and an executive summary was written. I usually drafted the executive summary. I drafted significant parts of some reports, or took the lead in putting it all together. It varied, depending on what it was. And then we deliberated on that.

ZIEGLER: And after . . . ?

BROWN WEISS: All the Panel members deliberated on the initial report. Usually this led to reorganizing the Report. As when you are writing any good report, you find things you don't know and see things that you still need to do—and you reorganize the report to make it effective, and make sure you can document everything in it.

ZIEGLER: And then your report went on to the Board, presumably?

BROWN WEISS: Yes, the final report went to the Board and to management at the same time.

ZIEGLER: And then, if I recall correctly, then management had a chance to respond.

BROWN WEISS: Management writes a response—a response and action plan. Management's responsibility is to respond to the report by developing an action plan if there are findings of noncompliance with policies and procedures.

I want to make it clear that the report is not a listing of compliance and noncompliance. Context is very important. The reports provide a lot of context for things that happen. They also include observations because the Panel does not make recommendations. But it did, in the context of making the findings, also make important observations.

ZIEGLER: In his letter to staff of September 24, 1993 announcing the establishment of the Inspection Panel, World Bank President Lewis T. Preston wrote: "I know that some of you are concerned that the creation of the Panel could encourage the Bank to avoid risks and to add more layers of review to existing decision-making processes." In your experience, was that concern justified or not?

BROWN WEISS: No. The Panel went out of its way during my tenure to say that development involves taking risks, and you can't do effective development without taking risks. The Panel provided a way to make sure that if you did take risks, and people were overlooked, or certain things happened, that those who were harmed had a place to complain. The Panel provided a place where people who had been overlooked, or were wronged, could come and seek to have their concerns heard. And that's a very important component of being able to take risks effectively.

During my first year as Panel Chairperson, I initiated a meeting with staff at the Bank. It was a public meeting, which anybody could come to. Jim [James D.] Wolfensohn was still the president. He wasn't there at the time of the meeting, and Shengman Zhang came and said that development is about risks, and that the Panel provides an important function. If you are going to take risks, it's important to have the Panel.

ZIEGLER: So that if something goes wrong with the risks, they can be addressed?

BROWN WEISS: That's correct.

ZIEGLER: That's the point of it.

BROWN WEISS: And it was very important to have such a high-level person, and Shengman was certainly a very high-level person . .

ZIEGLER: One of the managing directors, oh yeah.

BROWN WEISS: . . making that statement.

ZIEGLER: In that same letter, President Preston wrote: "We should be clear that the purpose of the Panel is not to second-guess the Bank's judgment in the design and implementation of projects, but to help ensure that we are following our own operational policies and procedures. I gave no doubt that you and your colleagues will see the role of the Panel in its proper perspective, and will retain an appropriate sense of self-confidence as you grapple with the challenges of development." How, in your perception, did staff view the role of the Inspection Panel, and did that view evolve over time?

BROWN WEISS: I think the view did evolve while I was there. I think it evolved to one in which there was more confidence in the impartiality of the Inspection Panel, and recognition that we do a thorough and fair job, and play an important role. I saw that evolve as we moved . . .

ZIEGLER: Staff became more accepting of the role of the Inspection Panel?

BROWN WEISS: More respectful and appreciative of the role of the Inspection Panel. I saw that happening, and I also got feedback to that effect from staff and management. I think the acceptance of the Panel, as opposed to respect and appreciation for it, varied among Regions and among staff and management. I think some Regions were very cooperative at all times, and other Regions, I think, saw it as more of a threat.

I understand why, when you are a very competent person and have high skills, and you are not used to having somebody look over your shoulder that way, and it may cost you money to comply with the findings of the Panel—I understand why there could be some hesitation about it. What I think is really important, and I was always puzzled about, is why people didn't understand that the Panel brought them so much respect as an institution and respect for whatever project it was. Even if things had been done badly, the fact that the Panel existed was a big compliment to the institution, and they really should take pride in it.

ZIEGLER: Did you—along those lines—and we just spoke about feedback from staff, what about feedback from outside the Bank? Are you reflecting things that were told to you . . . ?

BROWN WEISS: Yes. There was very positive feedback from civil society, including from

academics. There's a whole slew of writing about the Panel that has emerged. That's good. And we received good feedback from members of the Board of Executive Directors.

ZIEGLER: How about NGOs?

BROWN WEISS: Yes, we got good feedback from NGOs. There are always additional things that some NGOs would like done, and that's fine. We are trying to get a system that really works.

ZIEGLER: The Inspection Panel submits its reports to the World Bank's Board of Executive Directors. Please trace the evolution of the relationship between the Board and the Inspection Panel, as you perceived it during your tenure on the Inspection Panel.

BROWN WEISS: The Panel had a close relationship with the Board during my tenure. I think that closeness grew over the course of my tenure on the Panel. I gave it a high priority to meet all the people who were executive directors at the time I came in, and on a regular basis throughout my tenure. We also had certain information sessions for Board members and their staff. There were teas, and we invited any staff members who wanted to come. We would brief them on what was going on, and also let them ask any questions. It's very important to let both Board management and staff ask questions at a public session. It's very important for Board staff to be in contact with us, and to be able to discuss anything that they were concerned about. We tried to foster that conversation. I also felt that there was always a lot of support for the investigation reports of the Inspection Panel.

ZIEGLER: Were there any executive directors who stand out in your mind as being particularly good? I won't ask particularly bad, but particularly good.

BROWN WEISS: Well, there were a number of them. I think I'd like to leave it at that.

ZIEGLER: Okay.

During your time on the Inspection Panel, was the Board generally amenable to approving the Panel's recommendations for inspection, and was there a certain pattern to be discerned in the approvals and refusals? Now, you've already indicated that they were generally pretty supportive, but this is getting into a little bit more detail.

BROWN WEISS: In 1999, there was an important change made by the Board of Executive Directors' 1999 Clarification to the authority of the Panel. As a result of the Clarification, when a Panel recommendation for an investigation went to the Board, it was now approved on a non-objection basis as opposed to the earlier requirement for the Board's affirmative approval. No recommendation from the Panel for an investigation was ever refused during my tenure. Everything was approved by the Board. All the investigation reports also, were approved by the Board.

Sometimes the Board ordered additional measures to management's action plan beyond what had been included. For example, in the Yacyretá investigation [Reform Project for the Water and Telecommunications Sectors, SEGBA V Power Distribution Project (Yacyretá 2002)] which was concluded in spring 2003, the Board made additional requests that went above and beyond what management and staff had put together in their action plan. That happened I think one or two other times. But as far as I am concerned, the Board was supportive of everything that we did.

At my last meeting with the Board of Executive Directors—before I left the Panel, the Board gave me a round of applause. I was very pleased by that because it is not normal in Board meetings, as you know.

ZIEGLER: Executive directors are among those permitted to submit a request for inspection. Did any do so during your time on the Inspection Panel?

BROWN WEISS: No. I believe one did before my time on the Inspection Panel, but not during my time.

ZIEGLER: According to the 1994 Administrative Procedures of the Inspection Panel, amended in 1998, the Secretariat is expected to report to the Panel "any attempt by Bank member countries, non-governmental and other organizations, the executive directors or Bank staff, to interfere with or influence the staff of the Secretariat in the discharge of their functions." Did you encounter any such attempts at interference or influence?

BROWN WEISS: What I would say is that at no time was I influenced, or did I let anything else interfere with my ability to do my job, or what I did on my job.

ZIEGLER: In practice, was the Inspection Panel able to disseminate information regarding claims independently and without censorship from the Board with the Bank management?

BROWN WEISS: Yes.

ZIEGLER: How would you characterize the Inspection Panel's relationship with member governments overall, and more specifically, with governments in whose countries inspections were being conducted?

BROWN WEISS: I think that those relations were good for the ones that I was involved in. We dealt directly with the executive directors, for they had to help arrange for our entry into the country, which they always did, and we briefed them regularly. I found the relationships generally good.

ZIEGLER: And you would meet with the members of the government during your field visits, presumably?

BROWN WEISS: Always. Usually the finance minister, somebody in the finance minister's

office if it wasn't the finance minister, and then the ministers of the relevant ministries.

ZIEGLER: During your time on the Inspection Panel, was there any backlash from member governments to limit the Inspection Panel's scope and autonomy?

BROWN WEISS: There was concern about the fact that we didn't deal with procurement issues, and so it's the opposite of the question you asked. Some Board members asked, "Why can't we deal with procurement issues?"

ZIEGLER: They wanted to expand the . . .

BROWN WEISS: They wanted to expand the Panel's jurisdiction. There was also, in connection with one investigation, a concern that the Panel not get into corruption, but the report referring to corruption that had been issued was not the Panel's. The Panel never, in its report, mentioned the word corruption. So . . .

ZIEGLER: It could be argued that if the World Bank pushes too hard in favor of economically and politically costly social and environmental requirements in its projects, borrowing governments would just go elsewhere—for instance China—where there is little or no emphasis on such requirements. How would you respond to this issue?

BROWN WEISS: That may happen. I think the World Bank serves a very important role in terms of ensuring that the social, economic issues, and environmental issues, are adequately addressed in the context of sustainable development in the country. That often ends up empowering those people within a country who would really like to have sustainable development and want things to be done right. So I think the Bank continues to play a very important role, and if for any given project the countries want to go elsewhere, they go elsewhere.

ZIEGLER: A short piece in the January/February 2004 issue of *Foreign Policy* magazine notes that the Inspection Panel's use of the internet "is serving as a model for the inspection mechanisms at other development banks," but that, "because of the lack of internet access, the Panel's inspection mechanism remains unknown in most of the developing world." It would be interesting to hear the Inspection Panel's approach to the use of the internet as a tool in its work, and how this use evolved during the time you served there.

BROWN WEISS: The internet evolved during the time that I served there, and the internet has evolved a lot since the time that I served there. People could find out about us through the internet. There's at least one request and subsequent investigation in which the local people were able to access the internet and to find out about us through the internet. So it serves as a source of information about the Panel.

In terms of investigations, people could convey information over the internet, and we invited anybody who had information to convey it over the internet. The fact that most people don't

have access is less important than the fact that a couple of key people within the group of affected people have access. We found that usually there's one person, or a small handful of people, who'll have access to the internet to communicate.

ZIEGLER: And they could get information from their . .

BROWN WEISS: Absolutely.

ZIEGLER: . . their colleagues.

BROWN WEISS: Absolutely, and convey it to us and alert us to things.

There's one issue, and that relates to conveyance of a request. Because a request could come in over the internet, we always demanded that we have a hard copy of the request also. We would always go and verify the signatures because it is, I think, irresponsible to put the Bank through the potential for an investigation, if you haven't gone and actually met the people and verified their signatures to the request. You can't really do that yet on the internet. I felt that it was very important to verify the people and their signatures . .

ZIEGLER: That they were real people.

BROWN WEISS: . . and you really need to have a hard copy of things to do that and to verify that they were real people. You want to find out, again, the context, what's really up, why the people are complaining, whether there is potentially a problem there.

ZIEGLER: The need for local roots is essential to the Inspection Panel's claim process, which relies on directly-affected individuals willing to make their claims on the record with the assistance of civil society coalitions. How did the Inspection Panel proceed to nurture such roots during your service?

BROWN WEISS: We tried to—several ways. Firstly, we published our brochure in 12 languages. We also tried to simplify it so that the essence of it was there.

ZIEGLER: And it's very short. I have seen it.

BROWN WEISS: It's very short, purposely. There was an earlier one that was much, much longer. This one is very short, in 12 languages, and we tried to get it distributed. We sent it to the World Bank s, and whenever we were in a World Bank Regional Office, or the country offices in other areas, we would go in to see whether the brochure had been distributed. Oftentimes it had not been; it wasn't available, or if it was available, it was only after people went through security to get into the Bank office. So that was not as effective as it might be.

We also tried to hold information sessions at international meetings, both at the World Bank international meetings, at CIVICUS [World Alliance for Citizen Participation] when it met in

Scotland, and at the World Social Forum. I was invited to make a presentation at the World Social Forum in New Delhi, which I was very pleased to do, and we made information about the Panel available there. In addition, sometimes jointly with other activities, we spoke at conferences concerned with those issues, or lectured sometimes at universities, if invited to do that.

Much more needs to be done. One thing that I tried to do, and was only partially successful at, was to have a link to the Panel on the front page of the World Bank website itself, where . . .

ZIEGLER: And there isn't.

BROWN WEISS: And there is not a link, where you could just press on it and you'd find out about the Inspection Panel. For every project and program, there ought also to be a link where you could press on it and find out about us. It may no longer be there,—but at one point, we did have a link on the World Bank website when you looked at projects generally, but not specific projects, only projects generally . .

ZIEGLER: Yes.

BROWN WEISS: . . . to the World Bank Inspection Panel. I very much think it's in the World Bank's interest, if they have this accountability mechanism, to make it known and to take credit for having it. I think it's short-sighted not to do so.

The Panel has its own website, which anybody can access. The World Bank has, as I said, this link to the Panel, but that link is not to our website. It's to what the World Bank maintains on its website about the Panel, which is not up-to-date and not complete.

ZIEGLER: Oh, so it's not to the Panel's website?

BROWN WEISS: No. It is not. And it should be, or at least you ought to be able to transfer from one to the other so that the two are harmonious and consistent, and both up-to-date. I think a lot more can be done to make people aware of the Panel. We tried.

ZIEGLER: Yes.

Did you make any specific initiatives for outreach to civil society? Now, we are talking about the people directly affected, but how about NGOs and groups like that?

BROWN WEISS: Yes, we did. For example, presentations at the World Social Forum—CIVICUS—and many other presentations that we gave in various parts of the world. We tried, normally, to link that into other travel that we were doing, but if it was something important, we went directly to the event and made presentations.

ZIEGLER: So you weren't making conscious efforts to reach out to both the grassroots and to

international NGOs also?

BROWN WEISS: We reached out to both, but we didn't target international NGOs.

ZIEGLER: No.

BROWN WEISS: No, that we did not do.

ZIEGLER: Okay.

BROWN WEISS: What we did do was target civil society and local NGOs, and most countries have NGOs.

ZIEGLER: Yes.

BROWN WEISS: International NGOs or the national branch of an international NGO might also be in a country. Also, when the World Bank held its Annual Meetings here in Washington in the fall and the spring—unless it was the year that the Annual Meeting was held abroad—we always held a meeting with NGOs and we let them ask questions. We also held special briefings here with NGOs at other times of the year.

ZIEGLER: In the 2006/2007 Annual Report of the Inspection Panel, there's a—it gives the percentage of requests for inspection by Region as of June 30, 2007. This has probably been updated since I put these questions together, but it is still indicative. In Africa there were 14 cases, which is 30 percent; Latin America and the Caribbean, 15 cases, which is 33 percent; South Asia, 11 cases, which is 24 percent; East Asia and the Pacific, which is 4 cases, 9 percent; Middle East and North Africa, no cases; and Europe and Central Asia, 2 cases, which would be 4 percent. Could you hazard a guess as to the reason or reasons for the great disparity between the number of requests among the Regions?

BROWN WEISS: Remind me of the year again.

ZIEGLER: This was 2006/2007. This is . . .

BROWN WEISS: So this is the 2008 Annual Report, or . . .

ZIEGLER: But it will be close; it hasn't changed much.

BROWN WEISS: Yes. I think, in terms of the Europe and Central Asia Region, many of those countries have only been independent since about 1990, and then they have to apply for World Bank programs or projects. There's a lag time before they come online with Bank financing and then would be able to make requests to the Panel. I don't know what the current data are on that, but during the time that I was there, we did receive a few requests.

With regard to Northern Africa, I gather there has now been a request from Yemen, which was after I left. I don't think there's been a practice of making complaints in this Region.

ZIEGLER: So they just didn't do it?

BROWN WEISS: They didn't do it, yes. I don't know the reason.

ZIEGLER: It's just striking that there . .

BROWN WEISS: It is striking, yes.

ZIEGLER: . . there's such a disparity.

BROWN WEISS: In many countries in Africa, and in Latin America, and in Southeast Asia and Asia, you have a sense of a thriving civil society. You also have a thriving civil society in parts of North Africa, so I don't know why there have been no requests from the Middle East and North Africa, the MENA Region . .

ZIEGLER: Yes.

BROWN WEISS: . . which is I think what you are talking about.

ZIEGLER: Right.

BROWN WEISS: I do know that there has been at least one that has come from that Region recently.

ZIEGLER: On June 8, 2004, you and the Senior Vice President and General Counsel of the World Bank, Roberto Dañino, issued a joint statement on the use of country systems in the context of the Mexico decentralized infrastructure reform and development project. You also were invited to present to the World Bank's Board of Executive Directors a statement regarding the Inspection Panel's role in this project. Was this issue of particular importance in the evolution of the role of the Inspection Panel?

BROWN WEISS: It was of central importance in maintaining the role of the Inspection Panel. For the country systems approach, the question arose, would it change the role of the Inspection Panel? There were efforts to say that it did change the role of the Inspection Panel, that the Panel would no longer be involved in both the upstream and the downstream implementation part of a project. The joint statement between Roberto Dañino and myself was intended to make clear that it would. So I view it as central to maintaining the role of the Inspection Panel.

ZIEGLER: According to some commentators, several factors inside and outside the World Bank have constrained the Inspection Panel's potential impact. First, many civil society actors affected by the Bank projects remain unaware of the Inspection Panel and its pro-accountability

potential, not only because they lack information about the Panel, but also because most Bank-funded projects appear to those affected to be exclusively nation-state projects. Even if they knew that the Bank provided funding, they would still need to be aware of the Bank's social and environmental safeguard policy commitments to know that compliance was even an issue, and therefore subject to accountability politics strategies.

Second, many possible problems with many Bank projects are not directly subject to the Panel's mandate.

Thirdly, the cost and risk of filing a claim can be significant, including limited human resources to carry out the highly technical process of preparing, filing and lobbying for a claim, and the possible threat of reprisals.

And finally, the Inspection Panel's procedures and the Bank's extremely specialized policy language require a command of English, as well as a high level of familiarity with, and tolerance of, Western-style legal culture, traits that cannot be taken for granted in the populations most likely to be adversely affected by the Bank's projects.

What are your comments on these issues? And we will take that up on the next tape, because I will just change the tape.

[End Tape 1, Side A]

[Begin Tape 1, Side B]

ZIEGLER: Before you answer that rather lengthy question that I just asked you, you said while I was changing the tape that you would like to add something regarding the reasons you applied to the Bank's Inspection Panel.

BROWN WEISS: I wanted to add that one reason was because I was very interested in the Bank and issues of accountability, but the second reason is that I have had a long-time concern with poverty and impoverished people and their lot, and with how we can have effective development. It was that concern that really drove me more than the first concern. I wanted to make sure that you know that.

ZIEGLER: Thank you. Thank you.

We were talking about the—a number of concerns about civil society, and maybe we should take them one by one. The first one was about the not only lack of information about the Panel, but also many Bank-funded projects appear to be exclusively nation-state projects. In other words, there's a lot of complication involved. These are all actually fairly interrelated . .

BROWN WEISS: Right.

ZIEGLER: . . . so you might want to take them as a whole.

BROWN WEISS: Okay. The first one relates to how civil society knows about us, and how they know whether a Bank project is involved, so that there's something that they might be able to launch a complaint about. I have tried to address that in my previous answers. A lot more needs to be done. We tried to simplify the brochure. We tried to make it clear when we spoke at various conferences and in various fora and information sessions. I think as the use of the internet increases, it will also be helpful in disseminating that kind of information and making it available to people.

The second concern is that many projects are not directly subject to the Panel's mandate, and there I guess I'm curious, because I thought that all projects and programs were subject to the Panel's mandate unless they dealt with procurement.

ZIEGLER: Maybe that's what they mean, but this is some of the—this is something my research indicated in terms of responses from civil society . . .

BROWN WEISS: That probably needs to be clarified with civil society, because our jurisdiction extended to all projects and programs, except if they dealt exclusively with procurement. Everything else was within the Panel's mandate. The research suggests that the Panel needs to do much more to make that clear.

The third one relates to the costs and risks of filing a claim, and you related it to a highly technical process of preparing, filing, and lobbying for a claim. The lobbying, in my view, is not an accurate characterization. Either the request meets the criteria and the Panel goes forward, or it doesn't. The Panel would not be subject to—and it wouldn't pay any attention to—lobbying. You always have to find out what's really going on and to make an assessment on that basis.

As for the technical part, it's important to get that kind of feedback. The process is not technical. All you have to do is write a letter. It doesn't have to be in English—many of them came in other languages. But you do have to be able to write a letter that says you believe that there's a World Bank project, and that you are being harmed by it . . .

ZIEGLER: Yes.

BROWN WEISS: . . . or could be harmed. Now, as to the question of how you know whether there's a relevant World Bank project, there can be informal consultations to find out whether there is a World Bank project in the area before you ever file a request. But again, somebody has to know to contact either the Bank or the Panel, or somebody has to find out whether there might be a project or a program that is relevant here. The actual process of filling out a request is not technical. The request can be—and in some of them it was—the most simple letter of complaint.

ZIEGLER: Well, it was just—these were points that were raised—in doing my research I was reading what civil society . . .

BROWN WEISS: Yes.

ZIEGLER: . . . or at least portions of civil society, were saying about the Inspection Panel, and these are some of the themes that cropped up.

BROWN WEISS: Whenever you have a concern expressed like this, the Panel has to address it. And this means looking at your communication materials, looking at your website, seeing what kind of fora you could be speaking in, getting feedback from civil society, and meeting with them. It's very important, the whole process.

On the threat of reprisals, that's real, and the Panel went to great efforts to ensure against reprisals. If the people who were making the claim believed that there could be a reprisal and they asked that their names be kept secret, we always kept their names secret. When we went to a country to meet with them, to verify that there were people with the signatures . . .

ZIEGLER: Yes.

BROWN WEISS: . . . who really had a complaint, we had to take important measures to make sure that their names remained secret. We also took measures to make sure that there weren't gendarmes in the room when people were talking. So you have to take a number of procedures. In some cases—in community meetings where there might be other officials there—I had to convey the important point that the people weren't to be harmed as a result of attending this meeting, and they were not to be harmed as a result of meeting with us, and, further, that the World Bank set up the Inspection Panel; that it was an important part of World Bank procedures, and there were no actions to be taken against any of these people for anything that they said. If necessary, I made that point all up the line, from the more local and provincial officials to the very top.

ZIEGLER: As far as you know, that was effective in . . . ?

BROWN WEISS: So far as I know, yes. And if some action were taken, then sometimes you had to solicit assistance to make sure that nobody was punished because they had taken something to the Panel. But those are the kinds of things that don't surface publicly, and shouldn't.

ZIEGLER: Right. Right.

Other issues raised by outside individuals and groups regarding the Inspection Panel process include the need to, for instance, increase stakeholder access to the Panel process, including being consulted about project remedies, implementing an appeals mechanism for claimants, increasing the Panel's powers to conduct post-inspection follow-up and monitoring of project remedies and compliance, developing a more transparent selection process, developing a wider public outreach and communications, and securing Panel control of its own budgetary resources.

Some of these issues you have addressed already, but is there anything there you would care to respond to? Again, this is . .

BROWN WEISS: Sure.

ZIEGLER: . . these are things that surfaced during my research.

BROWN WEISS: If they have surfaced, I am very glad you are asking me about them. On increasing stakeholder access to the Panel process, including being consulted about project remedies, there is a provision in the Panel's Resolution that management and staff are supposed to consult with the project stakeholders in the process of developing management's response and action plan to a Panel investigation. At least when I was there, this was generally not followed, and if it was, it wasn't in sufficient detail that the stakeholders felt that they really had any kind of role in the fashioning of those remedies.

It has sometimes been suggested that the Panel report ought to go in draft to both the stakeholders and to management and staff. I feel strongly that that is inappropriate. Once drafts get out, they become final. People get vested in them and they argue for various parts of it. Then they can pressure you to change. The effectiveness of the Panel relies upon the fact that they can do independent and impartial reports, which aren't affected by those kinds of outside influences. So I have opposed sending out a draft report. I very much support, however, having management and staff hold effective consultations with the affected people, especially on what remedies might work. It's obviously a decision for the government and for the Bank management and staff as to what they put forward, but sometimes you can learn things through consultations.

With regards to the second item, I think the appeals mechanism is inappropriate. The Panel has to decide whether management and staff have complied with their policies and procedures, and to do so, it gathers all the information that it can. The Panel is not a court. It is much more like a fact-finding commission. Management and staff have the responsibility to develop the action plan in response to a Panel investigation. This is as it should be, because if they developed it, they can buy into it. The Panel Report and the Management's Response and Action Plan go to the Board, and it's really the Board's decision. An appeal mechanism is like making the Panel a court, and that's very inappropriate. If there's additional information, it ought to be given, even after the report is done.

ZIEGLER: In fact, I understand, if I recall correctly, that in your presentations—you and your staff's presentations to the Bank's staff, you made it clear that it was not a court. It was simply a fact-finding, that this was a . . .

BROWN WEISS: It is not a court. People who are not lawyers tend to call it a court. People who are lawyers know that it's not a court, and it is not a court. So I think an appeals mechanism is inappropriate. The reports are transparent. If something's wrong, somebody can say that, and the Panel can take action after that.

Increase the Panel's powers to conduct post-inspection follow-up and monitoring of project remedies and compliance. As you know, the 1999 Clarifications made it clear that the Board didn't want monitoring. On the other hand, the Board has specifically asked the Panel after both the 2003 Yacyretá investigation, and the Mumbai Urban Transport Project investigation—to do follow-up. We were very much involved in the Mumbai follow-up. I view that as continuing the role that the Panel had before, which is finding out whether, as a factual matter, management and staff have done what they said they were going to do, and what kinds of conditions have developed. That is very useful to the Board for knowing what's happened. For example, if management has said something is going to be connected or connections are going to be put in, or all the shopkeepers have been taken care of now, and you look and find that's not true—it's very important for the Board to know that.

I distinguish this from monitoring. World Bank management and staff have a very important role in monitoring—it's their responsibility to implement and to monitor what happens in the implementation. And the Panel's role in post-investigation would be to continue to engage in fact-finding. Fact-finding is an investigation into what is happening. It very much complements the implementation process. Whether it's useful and appropriate depends upon the individual investigation.

My final comment is that I would like to see the Panel's role increase in terms of follow-up, but within the confines that I have mentioned. It would be very appropriate to have the Panel more involved in follow-up than it is, but not to take over the Bank's monitoring role.

ZIEGLER: It also mentions the Panel securing control of its own budgetary resources. Did you find that to be a—budgetary resources to be a difficulty, or did you had sufficient to undertake or carry out your mandate?

BROWN WEISS: I should clarify that our budget comes directly from the Board. It's not determined at all by management and staff. We worked on the same budget with no real increases until my last year, though there was cost adjustment for inflation. While there were no real increases in the budget, we had a four to five times increase in our workload. So we managed to do things much more efficiently and much more effectively. In earlier years, the Panel sometimes returned the money that it hadn't used to the Board. So . . .

ZIEGLER: But did you feel you had sufficient budgetary resources during your time there?

BROWN WEISS: They were adequate. There was no money to spare though. Had we had more money we might have done more traveling to organize events and to talk to people in various areas. I don't mean only affected people: I mean getting the word out on a regional basis in certain symposia or meetings. We were limited in what we could do, because we had to make sure the investigations were fully funded. The resources required for this depended on the complexity of the investigations, how many investigations there were, how many complaints came in. The bottom line is, we had adequate resources. My last year I had to ask for, I believe,

another \$100,000 in order to get us through. We had the Congo investigation for example [Transitional Support for Economic Recovery Credit Operation and Emergency Economic and Social Reunification Support Project], which was . . .

ZIEGLER: Well, \$100,000 is "chump change" in terms of the Bank.

BROWN WEISS: Exactly. But that's the additional amount that I asked for at that time, and I did get the additional \$100,000.

ZIEGLER: So you were not unduly constrained by lack of resources, I suppose you could say?

BROWN WEISS: We were not unduly constrained. We did use resources increasingly efficiently, to really try and get the job done.

ZIEGLER: Not a bad thing, perhaps.

BROWN WEISS: Right.

ZIEGLER: Greater efficiency; they are always on about that at the Bank, so . . .

BROWN WEISS: Yes, exactly. But it's very important that the Panel have adequate resources to do its job, because otherwise you invest in an institution, you don't give it the resources, it doesn't get the job done, and you don't get any of the benefit.

ZIEGLER: And it seems, to my untutored eye, an expensive process. You have all these field missions. There's quite a bit involved in all of this.

BROWN WEISS: It's expensive if you just look at the cost. I think it's not expensive if you look at the potential benefits from it.

ZIEGLER: But they are non-quantifiable?

BROWN WEISS: Well, they are non-quantifiable, but they are also quantifiable, because if you have overlooked important things in the project . . .

ZIEGLER: Yes, I take your point.

BROWN WEISS: . . . there are really heavy costs that can come later from that. There are also lessons to be learned about how one handles issues in the future, not only in that kind of project or program, but sometimes across the Bank, or across a broader sector of projects and programs. So you have benefits at the project level and at the broader levels in addition. I think if you try to quantify costs and benefits and see how much money it will take to go back and fix things, and how much money it took for management and staff to discover that they didn't do it right in the first place, and the consequences of that, it makes much more sense for management and staff to

have done it right in the first place.

ZIEGLER: And you can say that the Inspection Panel is really part of the learning process of the Bank, too.

BROWN WEISS: Absolutely.

ZIEGLER: I mean, there's a certain educative function there, that the Bank learns by making mistakes sometimes.

BROWN WEISS: Nobody's perfect. That's correct.

ZIEGLER: At last count, which is, well, roughly mid-2009, there have been 58 requests for inspections filed since the Inspection Panel began operations in 1994. Given that there have been hundreds of World Bank loans since then, what, in your opinion, accounts for the relatively small number of cases brought before the Inspection Panel?

BROWN WEISS: I don't know the answer to that. There may be many parts to the answer. One part is, I think, that people have not known about the Inspection Panel. That's surely a big part. There are also projects that are done right, which haven't generated any complaints, so . . .

ZIEGLER: No news is good news.

BROWN WEISS: No news is good news, and it may be there's certain kinds of projects in which requests are more likely than in others.

Also, it's a big deal for somebody to make a complaint, a request, because, as some of your feedback pointed out, you have to assume the responsibility for making the complaint. You have to sign on. And even if there are four villagers and an umbrella organization, nevertheless, people from those villages have to take responsibility, as does the umbrella NGO organization that put the request forward. That means people have to care about making the request, and are committed over a period of time. They are taking certain risks, and I think that may also discourage requests. Once you file a request, the request goes on the Panel website, and that's available to anyone, anywhere in the world. On the one hand, that's terrific, the request is disseminated; on the other hand, the people are taking a certain amount of risk.

ZIEGLER: Yes.

BROWN WEISS: And that's why it's so important to protect the people who make the request, and by protect I mean to ensure that there aren't reprisals made against them for making the request.

ZIEGLER: As we discussed . .

BROWN WEISS: Yes.

ZIEGLER: . . . earlier, yes.

BROWN WEISS: It's also in my view very important never to encourage anybody to make a request, because it's a personal calculation whether to do so. You would be doing a great injustice to try and influence them in any way. The job of the Panel was to provide the information to them, and if they wanted to know about certain things, that's fine. That's the Panel's job.

ZIEGLER: So in other words, you would get inquiries from people or organizations, and you would simply act as an information provider. You wouldn't say, "Oh yes, you really want to . . ."

BROWN WEISS: Never. Yes, we would always provide the information. We would never say the other. I believe that would be very unfair if we had; unfair to the people.

ZIEGLER: Yes. Another potential risk to the work of the Inspection Panel that has been pointed out is that the inspection mechanisms may downgrade, lose their original purpose . . .

[Interruption]

ZIEGLER: Okay, we will continue here. Another potential risk to the work of the Inspection Panel that has been pointed out is that the inspection mechanisms may downgrade, lose their original purpose, and become an inward-looking, technical mechanism whereby the working procedures change from instruments used to reach desired aim into the aim itself. Did you discern any such trend during your time on the Inspection Panel?

BROWN WEISS: I discerned the opposite trend. The Inspection Panel, I think, grew in importance, operated at a high level and was given more attention within the World Bank. I believe that has continued since I left.

ZIEGLER: There is a long lead time involved in the World Bank project cycle, which means that some projects in the implementation stage were designed before applicable safeguard policies were implemented. Did you encounter this phenomenon, and if so, how did the Inspection Panel address it?

BROWN WEISS: We always applied only those policies and procedures that were applicable at the time the project was designed. If something was done later to the project, then we applied the policies and procedures that were applicable then. So in a given project, at an earlier time, one set of policies and procedures might have applied, and if there were revisions or additions to the project at a later time, different policies might be applicable.

ZIEGLER: Prior to your appointment to the Inspection Panel you had considerable experience

on issues of international law and global policies, including environmental and compliance issues. How did this earlier work inform your work on the Inspection Panel?

BROWN WEISS: It made me sensitive to the context in which things were operating. It gave me some familiarity with the World Bank and how it operates, and with the potential role of the Inspection Panel. It made me appreciate the importance of detail, that one really had to get it right, and that this meant questioning everything until you really knew what the story was. That attention to detail, I think, is in part what a lawyer brings with legal experience. Hopefully, it made me appreciate issues of compliance, the various strategies that one uses to achieve compliance, and the various problems that arise on the ground, to achieving compliance. I have done research on compliance with other international researchers, which has involved field research in different countries.

ZIEGLER: Which requests for inspection and their resultant inspections particularly stand out in your recollections?

BROWN WEISS: There are two that particularly stand out. One is the Mumbai Urban Infrastructure and Urban Resettlement project involving resettlement of some 120,000 people, and the other is the DRC [Democratic Republic of Congo] investigation of the project on forest reform, and then development policy lending in Congo.

There are many others that were also important. We did the Cambodian investigation on forest reform [Forest Concession Management and Control Pilot Project]. We did one on the Indus River in Pakistan [National Drainage Program Project]. We did the Yacyretá investigation in response to a request that was submitted by people from Paraguay.

ZIEGLER: Why do those—the Mumbai and the DRC—stand out so particularly?

BROWN WEISS: The Mumbai project stands out because it was one of the largest—I believe the largest, urban resettlement project that the Bank had ever undertaken; of 120,000 people. It illustrated how things can go wrong in a project that was originally designed correctly. The Panel found that the resettlement and the urban transport project were initially two separate projects; that at that time, both of them, as far as we could tell, had complied with the policies and procedures of the Bank. They were then combined into one project. The number of resettled people was reduced to 80,000 when it went to the Board. The project went on fast track to the Board despite the large number of people involved. It did not have an adequate risk-assessment. Indeed, it had no risk assessment pertinent to the actual risks that were being assumed in resettlement, and so the Board approved it on fast track. That had a lot of consequences.

One of the significant consequences is that the needs of the shopkeepers along the roads that were going to be expanded were overlooked in the combined project, whereas they had been identified in the earlier project. The shopkeepers were completely overlooked. They brought the first complaint to the Panel. Some of them had 2,000 square feet of shop space, along heavily-traveled roads, commercial roads, and they were being put into 225 square feet of space in a

resettlement site.

The project also stood out because of the number of people who were being resettled and the difficulties of doing that, and the problems that we found at the site. It also stood out because a nongovernmental organization was responsible not only for resettlement along the railroad portion, but on the road component of the project, and it was not clear that they had the capability of carrying the latter out. The Bank hadn't really supervised that component properly. For example, when we asked to see the receipts for things, they informed us that they didn't keep receipts.

ZIEGLER: And there was one in the Congo also?

BROWN WEISS: There was also one in the Congo on a request brought by the Pygmies. The complaint came from a network of Pygmy communities across Congo, across east and west Congo. The Pygmies were very concerned about a forest reform project in which timber companies would be given 25-year guaranteed leases to large portions of Congo.

The report stands out for many reasons. One of the reasons is that there are several hundred thousand Pygmies in Congo, but the World Bank material indicated that there were no indigenous people in Congo at all in the areas for leasing. We hired an expert on indigenous people, who is probably one of two—possibly there are a few whom I don't know about—but one of two of the best experts in the world, a Japanese professor from the University of Kyoto who had spent a lot of time living among the Pygmies in Congo. We quickly ascertained through him and our field visits, that there were lots of Pygmies in the areas designated for the leases, and yet the Bank had said there were none.

ZIEGLER: A rather large oversight.

BROWN WEISS: A rather large oversight. I understand that the process for determining whether there are indigenous people has been reformed in Africa subsequent to the investigation.

ZIEGLER: Another part of the learning process.

BROWN WEISS: Another part of the learning process. There were many other aspects that also stood out.

ZIEGLER: Were there any members of the Inspection Panel itself or its staff that particularly stand out in your memory, and if so, why?

BROWN WEISS: On the Panel itself, I would point to Ernst [Ernst-Gunther] Bröder, the first Chair of the Inspection Panel. I think he got it exactly right, which is that the Panel has to be placed at a very high level if it's going to operate effectively within the Bank and have its respect. He also paid attention to the Board, and to making sure that the Board was informed about the Panel and to developing good relations with the Board members, so if they had

questions they could come to him, or, more accurately, he could go to them. I met with him in Switzerland when I was half-way through my tenure, and we had a very nice conversation about a variety of things.

ZIEGLER: Comparing notes.

BROWN WEISS: Yes. I asked him historically what he had done, and why. I also want to compliment Eduardo Abbott, the Executive Secretary of the Inspection Panel since its inception, for his savvy work and the Panel's excellent staff.

ZIEGLER: You served under World Bank Presidents Wolfensohn and [Paul D.] Wolfowitz. Could you compare and contrast their interest in, and involvement with, the Inspection Panel, as well as their perceived degree of support for it?

BROWN WEISS: Both Jim and Paul were very supportive of the Inspection Panel. For example, we created a staff brochure when Jim was president, and he wrote a blurb that we put on the front of the staff brochure to distribute to all staff members. When Paul came in, he also provided a blurb, a different blurb, which went on the front of the staff brochure for the Inspection Panel. Whatever problems may have arisen with Paul Wolfowitz, both Jim Wolfensohn and Paul Wolfowitz were supportive of the Panel.

ZIEGLER: Well I think we can draw a line there.

[End Tape 1, Side B]

[End of Session]

Session 2**April 21, 2010****Washington, D.C.****[Begin Tape 1, Side A]**

ZIEGLER: Today is April 21, 2010. My name is Charles Ziegler, a consultant with the World Bank Oral History Program. I am in the office of Ms. Edith Brown Weiss at the Georgetown University School of Law to conduct the second session of her World Bank Group Oral History program interview.

Well, I am very glad you could take the time from your very busy schedule to see me and we can finish the interview today.

BROWN WEISS: It's nice to see you.

ZIEGLER: Thank you.

We left off—well we will begin with relations with inspection mechanisms in other institutions. The World Bank publication *Accountability at the World Bank: The Inspection Panel 10 Years On*, says on page vii, "Today the Panel's success has provided other international financial institutions the example and value of an independent accountability mechanism upon which to model their own accountability mechanisms." Could you please cite some of the other international financial institutions that took the Bank's Inspection Panel as a model?

BROWN WEISS: All of the multilateral development banks now have an accountability mechanism that does compliance reviews. In the Asian Development Bank they have both what they call an ombudsman as well as a compliance review mechanism. There was an original version at the Asian Development Bank, which was revised, and the second version has a very clear compliance review mechanism there.

The Inter-American Development Bank has had a compliance review mechanism for quite a long time, but it's not independent and it uses a roster of experts from which they select experts when they want to do compliance review. They have been in the process for some time of reviewing and restructuring the mechanism.

The European Bank for Reconstruction and Development has had an accountability mechanism, and they have just undergone a review of it and restructured it. They have now clearly separated out an ombudsman feature from the compliance review feature.

The African Development Bank has also developed a compliance review feature.

To be sure, there are some differences among them, but the notion of an independent body that would look at the institution's compliance with its policies and procedures, that would conduct an investigation, that would be transparent with the findings of that investigation, and that would respond to requests from poor, affected communities to look into alleged violations of policies and procedures, are characteristics that are fundamental to the Inspection Panel, which have also been carried forward in the other institutions.

And finally, of course, there's the IFC [International Finance Corporation] within the World Bank Group, which has a compliance adviser ombudsman function. The compliance part of that certainly is not the same; it's not independent like the Panel. But it does again have some characteristics of the Panel and was developed after the Inspection Panel was put into place.

ZIEGLER: And the World Bank Inspection Panel was something of a pioneer in this area. There weren't any previous ones that you modeled yourselves on.

BROWN WEISS: Correct.

ZIEGLER: Are there any innovations originating at the inspection mechanisms of other international bodies that have subsequently been adopted by the World Bank Inspection Panel?

BROWN WEISS: Not yet.

ZIEGLER: Does the Bank's Inspection Panel maintain any ongoing contacts with inspection mechanisms in other international bodies?

BROWN WEISS: Yes. There is an annual meeting of the principals of all the inspection panel mechanisms from all the multilateral development banks, and from the few national ones attached to export agencies. That's OPIC [Overseas Private Investment Corporation] in the United States, it's Export Import Canada, and it's the Japanese JBIC—the Japanese Bank for International Cooperation. The principals meet once a year. It's an informal meeting. People gather and talk about common issues that have come up, and how each one addresses it. Really it's a way in which they can exchange information and address emerging problems. If there's going to be a joint inspection or a joint complaint maybe coming forward, they can discuss how to go about handling that, and any issues that are of concern to people. The meeting is purposely kept informal so that people really have a chance to exchange information and exchange views, and genuinely assist one another.

The Inspection Panel initiated this meeting when I was Chair, but the model for it was something that I was very familiar with, which is that the legal counsels for the international organizations within the UN system meet on a regular basis, very informally, only principals, to exchange views and to raise issues of common concern. That was the model that I had in mind in initiating this, and it continues. There's an annual meeting each year. It's hosted by one of the mechanisms, and it's always a different mechanism. The Inspection Panel hosted the first one.

ZIEGLER: Do you recall what year that was, roughly? It's okay, just . . .

BROWN WEISS: It was probably the spring of 2003, in June. I think it was after the first year I was chairing it. It might have been June 2004.

ZIEGLER: Were there any cases in which the World Bank Inspection Panel conducted an investigation with an inspection body from another multilateral financial institution, or other multilateral body?

BROWN WEISS: Yes, let me speak to ones that either began or were during my term. The first one involved the second Yacyretá investigation, which involved a claim that was initiated in Paraguay regarding the Yacyretá dam. It was not a joint investigation, but a second claim did go at the same time to the Inter-American Development Bank. The Panel needed to proceed rather rapidly and try to get it done as soon as possible, and get it to the Board. The response at the Inter-America Development Bank was going to be delayed. But what we did do was to offer to them that they could go down with us with their expert panelists, if they wanted to. They weren't able to do that. But we did, at their request, agree to share our hydrologist with them, who was a superb Brazilian hydrologist. I worked out a memorandum of understanding with the relevant body in the IADB so that we could protect confidentiality of any information, and it would be clear exactly what our expert was doing. They used the expert—they didn't exactly rely on his work, but we made all of that available so that there would not be duplication.

The second time that the issue arose was in the Uganda Bujagali investigation [Third Power Project, Fourth Power Project, and Proposed Bujagali Hydropower Project], where there were joint efforts made to work together with the African Development Bank—especially joint visits in Uganda with the African Development Bank.

And the third place where that issue arose was with the Albanian power plant investigation [Power Sector Generating and Restructuring Project] where the EBRD also had a complaint. I think on that one the two mechanisms turned out to follow different tracks, but again, the effort was made to ask whether there were things that it would make sense to do together, that could both protect each institution and might make valuable information and expertise available.

ZIEGLER: And save some money, too, I suppose.

BROWN WEISS: Sure, absolutely.

ZIEGLER: Okay.

To sum up then, this session and last, in your view, what are the most significant effects, both positive and negative, that the Inspection Panel has had on World Bank practice and policies?

BROWN WEISS: I think the existence of the Inspection Panel has caused Bank staff and

management to look a little more carefully at whether they are following the Bank's policies and procedures, especially on certain policies and procedures, such as consultation, effective notice, risk assessment, resettlement and maybe on poverty reduction. I would like to think that the Panel has had a broader influence in terms of ensuring a thoroughness and a carefulness with which one approaches compliance with policies and procedures, and certainly for indigenous people's plans.

ZIEGLER: Are you able to discern any dominant pattern of Inspection Panel impact on the policies and practices of the Bank? You pretty much touched on that in your last answer, I imagine, but is there anything you would care to add, or does that pretty much sum it up?

BROWN WEISS: I think that that sums it up. I think there's more that could be done, much more that could be done in terms of insights that may be gained from the really very detailed investigations that are done for World Bank management and staff, but that requires, really, collaboration and a feeling that that should be done.

ZIEGLER: The creation of the Inspection Panel provided for the first time a vehicle for private citizens, and especially poor people, to access directly the World Bank's highest governing body, the Board of Executive Directors, and to seek redress for what they may perceive to be harmful operational consequences of the World Bank. Overall, how would you assess the Inspection Panel's performance in this area?

BROWN WEISS: I am biased. But I like to think that at least during my tenure there, the Panel did a very good job of it. One has to be careful to distinguish between an objective response to the demands of private citizens and poor, affected people, and one that meets all of their problems and their demands, because if the World Bank has in fact complied with its policies and procedures, you have to say that. The Inspection Panel always went back—and in Yacyretá, for example, there was compliance with important things like the environmental assessment—you have to go back and explain that. It's very important. You have to explain that they have a problem, but that the World Bank isn't responsible for that problem.

ZIEGLER: How is that received? I mean, I imagine in different places it would be received in different ways. But are they usually—are the people usually accepting of what they tell them?

BROWN WEISS: They have to have confidence in what you are telling them. But just to tie up the other question, so what that means is that the people who have been affected by the project and come to the Bank, and feel that they have been harmed by the project might not always be satisfied—their difficulties might not be satisfied by coming to the Bank.

Now, in going back, I think the Panel depends on trust, and the affected people have to trust that you are doing a very competent, fair, objective job. One way to do that is to go back and tell them what the result of the investigation is. If the Bank hasn't complied with the policies and procedures, with important things, you tell them that. If it has, you have to tell them that, too. In the Yacyretá investigation, we took our expert from Brazil back to Paraguay. He met with the

affected people—there were several meetings—and explained in detail the basis of his findings. We also did that, I believe, with our report—and explained in detail the basis of the findings. Then there could be a discussion, and if they had experts that they wanted to bring, again, there could be a discussion. I think that that's a way of ensuring that people understand what the findings are and the basis for them and that they have confidence in them, and trust.

ZIEGLER: The second edition of *A Citizen's Guide to the World Bank Inspection Panel*, by Dana L. Clark, published in October 1999 by the Center for International Environmental Law, states that in addition to providing a measure of accountability, the Inspection Panel process should also improve project quality and provide important lessons about why projects fail. In your experience, did this actually occur, and if so, could you cite some examples?

BROWN WEISS: It did occur. It could have occurred on a much broader scale. A couple of examples were the Yacyretá investigation, which was the first full investigation under my leadership as the Chairperson, and the Cambodia forest reform investigation. In the Mumbai infrastructure investigation, I think there were also some important lessons learned.

ZIEGLER: In March 2004 you attended a workshop in Paris entitled *Toward Collective Action on International Environmental Governance*. In your introductory remarks, you stated, "Now I would like to suggest some criteria for not only evaluating accountability mechanisms, but also evaluating international institutions concerned with the environment more generally. I call them the ACEE criteria. The first one is access: is the institution accessible? Is the accountability mechanism accessible to all those affected? Do they have the capacity also to use it? Second, is it credible? Is it independent, transparent, impartial, competent and fair? Third, is it efficient? Does it give timely responses with appropriate resources, and is there an effort made to minimize congestion? Fourth, is it effective to those who complain, for the target organization, as well as in relationship to states?" How well, in your experience, did the World Bank Inspection Panel meet these criteria?

BROWN WEISS: We tried to satisfy them as much as possible, and I think the answer to that question is that it is always a work in progress. For me the criteria are very useful things to look at. I have written about them in much greater detail in the article that appears in *Accountability at the World Bank: The Inspection Panel at 15 Years*. This was the presentation that I delivered at the annual meeting of the Inspection Panel mechanisms at the request of the EBRD, which was the host then, in London in May, 2007.

ZIEGLER: In your view, are there any particular questions or issues remaining to be resolved concerning the policies or processes of the Inspection Panel? I know you have been gone for a little while, but I . . .

BROWN WEISS: One issue that always comes up is what happens after the investigation is complete? And I think there could be more done to follow up, to see as a factual matter whether management and staff have followed through on their action plan, and on the Board decision, because the Board sometimes adds additional things to management's response and action plan.

That could be of service to the Board in evaluating where things have gone.

When there's an investigation there is also a requirement that management consult with local people in the development of its action plan and response. I think much more should be done with that. The Panel could pay more attention to whether or not such consultation was done in its presentation to the Board. That's a way of ensuring that local people feel that they also have a voice or are at least able to voice their concerns to management and staff. On both of those issues I think more could be done.

ZIEGLER: What changes or improvements would you suggest in the policies and processes of the Panel? While you have just done that, is there anything else that springs to mind that might aid the work of the Panel?

BROWN WEISS: This isn't directly on point, but I think it's very relevant, and that is that it's really important that the Panel at all times have absolutely first rate people, both as Panel members and as staff. It's a very small institution—nine people, including the Chairperson, and two more part-time Panel members. And so it's a very lean institution, and especially when it becomes very busy. Whether or not it's busy, you need absolutely first rate people, or they are not going to engender the trust of all affected parties. I think sometimes that's not emphasized enough.

ZIEGLER: As we come to the end of this interview, is there anything further that you would like to include that we have not covered?

BROWN WEISS: Yes, there are a couple of things that became standard practice that I think were important. The first is to make clear the distinction between the procedural and substantive requirements for a finding that the criteria have been satisfied to recommend an investigation. The procedural criterion is whether you have tried to resolve the matter first with World Bank staff and management. For an international lawyer, it's a little bit equivalent to exhaustion of local remedies—whether you have tried local remedies first. That's a procedural issue, and so if you haven't done it, then we put the substantive determination on hold until the criterion to consult with management and staff was satisfied.

The first example of that under my tenure, when we initiated it, was the Philippines case, on the sewage treatment plant [Manila Second Sewerage Project]. The result was that it did not go forward to an investigation; the issues were able to be resolved.

Another different example was the Oaxaca GEF [Global Environment Facility] complaint related to the GEF Indigenous and Community Biodiversity Project. Again, after the complaint was filed, we visited the place and put the decision on hold, and things were resolved without having to go to an investigation, though it wasn't because the procedural issue hadn't been done right first. It's a different kind of example. It's important to tell affected people that they really need to make sure that they have tried to resolve the issue first with the Bank.

ZIEGLER: Exhausted local remedies.

BROWN WEISS: Do that first. This is important because one of the exceptions for when a complaint cannot go forward to an investigation is if the Panel has already received a prior complaint and made a determination on it, and so we felt it was not proper to make a determination on it until the requesters had fulfilled this prior condition. I think that was a very important development.

ZIEGLER: Which project was that again?

BROWN WEISS: The Philippines sewage treatment plant was the initial one where that was very clearly done.

I think a second point is that we made sure that we returned to the country for every investigation, to convey the results in the country. I have mentioned that previously. It was not only that we met with the top government people, but we went back to the local people and conveyed the results to them.

ZIEGLER: In what sort of forum would that be? Like you—you would go to the affected area and conduct a public meeting? Was that . . . ?

BROWN WEISS: We would find out what the people thought would be most useful for conveying the results, so there's no one answer to your question. You adjust the forum to the project and to the country, and to what is most useful for the affected people. The meetings also give them a chance to ask questions and to understand what is going on. I think it gives them confidence in the process, even if they aren't necessarily satisfied always with the outcome of the process.

The third point is the Panel's Annual Report, which had a big change, with the publication of the 10-year report [*Accountability at the World Bank: The Inspection Panel 10 Years On*]. If you compare that report with all the earlier reports, you will notice a dramatic difference. It was appropriate, certainly, for the 10-year report to be much more fulsome, but then that approach was carried forward to all the subsequent reports. I think that's important because the reports are not only just to the Board. The reports reach a much broader audience, and provide the needed transparency.

ZIEGLER: And the 15-year report [*Accountability at the World Bank: The Inspection Panel at 15 Years*] is quite an item also to—it's well worth looking at.

BROWN WEISS: Yes it is. It's a very good report. That was done after I left. That whole pattern—the introduction of the charts to show which policies are most frequently raised in requests for inspection, the introduction of analyses by Regions, the introduction of the maps to show exactly where the requests have come from—all of that data were important additions to the Annual Reports of the Inspection Panel.

ZIEGLER: And these are publicly available, by the way.

BROWN WEISS: They are.

Now sometimes the charge has been made—which we touched on earlier but we didn't quite finish—sometimes the charge has been made that if you have an Inspection Panel, you are not going to go forward with certain projects. In my view, from the things that came to my attention, that would be an excuse, for there were other reasons why people didn't want to go forward with the project, or other inadequacies with the project. And so, as I mentioned before, it's very important, always, to convey to people that the Inspection Panel helps make the project better, and that risks are an inherent part of economic development.

My final comment would be that the Inspection Panel is very important as a means of giving voice to the affected people, so that they can tell us, and thereby the Bank, about their concerns to make sure that they aren't overlooked, or their concerns overlooked, and to see that the Bank has in fact complied with its policies and procedures. It's a way to have confidence in economic development but, most importantly, it's a way to ensure that development is effective and is sustainable.

ZIEGLER: Well, this has all been very illuminating and I do appreciate your taking your time from what I know to be a very busy schedule, to participate in the World Bank Group Oral History Program. Thank you very much.

BROWN WEISS: It's an important program. Thank you.

[End of Tape 1, Side A]

[End of interview]