

Kassel University
Faculty of Social Sciences
MCC V: The World Bank and The Inspection Panel
Prof. Aram Ziai
Winter Semester 2021/22

India: Rural Water Supply and
Sanitation Project for Low Income
States (P132173)-First Request
A World Bank Inspection Panel Case Study

Eva Süß
uk078254@student.uni-kassel.de
35694607
MA Global Political Economy and Development
30.09.2022

Contents

1. Introduction	1
2. The project and its context	1
2.1. General information on project objectives and components	1
2.2. Social and environmental concerns as anticipated by the Bank	2
3. Local grievances and the request for inspection.....	3
3.1. The requesters: Identity and context.....	3
3.2. The request	3
3.2.1. Violation of local livelihoods and cultural identity	4
3.2.2. Procedural flaws	5
3.2.3. Requesters' demands and expectations	7
4. The IP process at the World Bank	7
4.1. Management response	7
4.1.1. Response to alleged violation of local livelihoods and cultural identity	7
4.1.2. Response to alleged procedural flaws	8
4.1.3. Way forward: Next steps suggested by Bank Management	9
4.2. IP Team project visit, Eligibility Report and Investigation Plan.....	9
5. Critical discussion of the case	12
6. Reference list	15

1. Introduction

This paper will provide a detailed analysis of one of the cases registered with the World Bank Inspection Panel (IP). The “Rural Water Supply and Sanitation Project for Low Income States” (RWSSP) was an IDA-funded project implemented in India from 2014 to 2020. In September of 2018, members of an indigenous community in the state of Jharkhand requested an inspection of the RWSSP by the IP. They alleged that the construction of a Water Treatment Plant (WTP) on a sacred hill in their village was in violation of several World Bank policies. This paper will look into the request for inspection, Bank management’s response to it, as well as the steps taken by the IP so far. It will then contextualise the findings with reference to further literature on the Panel.

2. The project and its context

2.1. General information on project objectives and components

The “Rural Water Supply and Sanitation Project for Low Income States” (RWSSP) was a World Bank-funded project that was implemented in India from 2014 to 2020. Its objective was

“to improve piped water supply and sanitation services for selected rural communities in the target states through decentralized delivery systems and to increase the capacity of the Participating States to respond promptly and effectively to an Eligible Crisis or Emergency” (The World Bank, 2013, p. 3).

It was supported by an IDA credit of US\$ 500 million (The World Bank Management, 2018, p. v), with the Indian Department of Economic Affairs (Ministry of Finance) being the borrowing, and the Ministry of Drinking Water and Sanitation being the implementing agency (Misra, 2012, p. 1). The project objectives fell in line with India’s broader development goals, with infrastructure investment (including water and sanitation) being stated as a priority in the country’s 12th Five Year Plan (The World Bank, 2013, p. 1). The selected project sites were located in the states of Assam, Bihar, Jharkhand and Uttar Pradesh, and it was hoped at the outset that the project would reach around 7.8 million people in rural areas, including indigenous communities, with a special focus on women and children (The World Bank, 2013, p. 4). The four main components of the project were the improvement of institutional capacities in the respective sector, investment in and (re)construction of water and sanitation infrastructure, support for project management at the various levels of implementation, as well as the establishment of a financing instrument that would have enabled the reallocation of funds within the project towards “emergency response and reconstruction” in the case of a natural disaster (The World Bank, 2013, pp. 4–5).

2.2. Social and environmental concerns as anticipated by the Bank

The project was designed and put in place before the World Bank's new "Environmental and Social Framework" was introduced in 2018, when the responsibility for environmental and social concerns was shifted from the Bank to borrower governments (The World Bank, 2018, p. 83). Therefore, the relevant framework governing environmental and social impacts of Bank projects at the time were the Bank's "Safeguard Operational Policies" (Independent Evaluation Group, 2012, p. 7).

World Bank Safeguard Operational Policies (as of 2012)		
Environmental	Social	Legal
<ul style="list-style-type: none">• 4.01 Environmental Assessment (1999)• 4.04 Natural Habitats (2001)• 4.36 Forests (2002)• 4.09 Pest Management (1998)• 4.11 Physical Cultural Resources (2006)• 4.37 Safety of Dams (2001)	<ul style="list-style-type: none">• 4.12 Involuntary Resettlement (2001)• 4.10 Indigenous Peoples (2005)	<ul style="list-style-type: none">• 7.50 International Waterways (2001)• 7.60 Disputed Areas (2001)
Own representation based on Independent Evaluation Group, 2012, p. 7.		

The safeguards that were triggered in the case of the RWSSP were Environmental Assessment (4.01), Natural Habitats (4.04), Forests (4.36), Indigenous Peoples (4.10), and International Waterways (7.50) (The World Bank, 2013, p. vii). Overall, the social and environmental risks were considered "moderate" in the Project Appraisal Document (The World Bank, 2013, p. 9). This document also stated that Environmental Assessment studies had already been conducted by each participating state, and that the project activities were overall "not expected to have any significant adverse environmental impacts" (The World Bank, 2013, p. 15).

The Indigenous Peoples Safeguard Policy was triggered because four of the districts chosen as project sites in Jharkhand are considered "tribal territories"¹ under Indian law, obliging the Bank to create a "Tribal Development Plan" (The World Bank, 2013, p. 15). In its Policy on Indigenous Peoples, the Bank "recognizes, among other things, that the distinct identities and cultures of Indigenous Peoples remain inextricably linked to the lands they inhabit and the natural resources they depend upon to survive" and guarantees to follow a particularly participatory process, seeking broad support of the respective community (Duchicela Santa Cruz, Luis Felipe Atahualpa *et al.*, 2011, p. 1). At the inception

¹ "Tribal" or "scheduled tribe" are administrative terms referring to India's indigenous people, whose self-designation is "Adivasi" (see also 3.1.).

of the RWSSP project, the Bank was confident that “[t]he proposed project interventions [were] not likely to have any adverse impact on the tribal groups” (The World Bank, 2013, p. 15).

3. Local grievances and the request for inspection

3.1. The requesters: Identity and context

The claims about the RWSSP discussed in this paper were brought forward by 104 members of the Santhal tribal community from Jharkhand, in whose village, Giddhi Jhopri, a water treatment plant was being constructed as part of the project (Angad, 2019; The Inspection Panel, 2022b). They were advised by Adivasi scholar and activist Bineet Mundu, along with a San Francisco based NGO called Accountability Counsel. The latter introduce the case on their website, and explain that they have helped the requesters “prepare for, understand, and navigate through each stage of the compliance investigation process” (Accountability Counsel, 2020a).

The requesters belong to one of the “Scheduled Tribe” or Adivasi communities that account for more than one fourth of Jharkhand’s population (Government of Jharkhand, n.d.). Ghosh (2006) describes how the Indian state has always acted towards its indigenous communities with two opposed but coexisting modes of governmentality: “incorporative governmentality”, i.e. attempts at assimilation of Adivasi into broader society, on the one hand, and “exclusive governmentality”, i.e. “protection through isolation”, on the other (Ghosh, 2006, pp. 507–508). A result of the latter are the so-called “Scheduled Areas”, originating from a 1950s Constitutional Order. They are geographical regions with high Adivasi populations, in which Adivasis were to be granted forms of self-governance and relative independence, and in which transfer of land to “non-tribals” was outlawed (Gill, Bhattacharya and Bhattacharya, 2015, p. 14). Assimilation or incorporation, on the other hand, is characterized by the expansion of the rule of law and the market in Adivasi areas (Ghosh, 2006, p. 507). This “development” often results in the marginalisation of Adivasi livelihoods – including through “development-induced displacement”, especially in Jharkhand’s resource-rich forests – as well as in a process of Adivasi entering the market economy under the most precarious conditions (see e.g. Halder and Abraham, 2015). Having some idea of this contested and conflicted relationship between Adivasis and the Indian state² can be helpful in understanding any struggle over “development” in tribal areas.

3.2. The request

The request for inspection was handed in with the Inspection Panel on September 21, 2018, and supplemented with further documents on October 9, 2018 (Anonymous Requesters, 2018a; The

² For further discussion of this topic, see also Shah (2010) and Baviskar (2009).

Inspection Panel, 2022b). The issue at the core of the complaint is the construction of a water treatment plant on community land as part of a RWSSP multi-village scheme in an area called Baghbera, just outside the city of Jamshedpur. Multi-village schemes, which rely on surface water, were rather the exception in the context of the RWSSP – most villages were to be served individually through groundwater sources (The World Bank Group, 2014). In the case of the Baghbera scheme, a hill in the vicinity of Giddhi Jhopri village was selected as the site for the required water treatment plant – a decision opposed by some of the village community that ultimately led to the request for inspection.

It is important to note here that there has been a second requests for inspection pertaining to the RWSSP, handed in in December 2018, which also came from an indigenous community in Jharkhand. They complained about the construction of an elevated storage reservoir and were also supported by Bineet Mundu and Accountability Counsel (Accountability Counsel, 2020a; Anonymous Requesters, 2018b). Even though the requests are similar (and were later investigated together by the IP), they still refer to two different multilevel water supply schemes. This is also the reason why management provided two different responses to the requests (The World Bank Management, 2019, p. 5). Consequently, this paper will only focus on the first request, in order to be able to provide an in-depth analysis of one specific case. The following paragraphs will outline that request's argumentation as to why the construction of the water treatment plant was in violation of World Bank guidelines.

3.2.1. Violation of local livelihoods and cultural identity

First of all, the requesters stress the cultural significance of the hill on which the water treatment plant is being constructed: It is described not only as the site of an ancient sacred grove, home of spirits and location for religious festivals, but also as the community's graveyard and cremation ground, as community pasture for their animals, and as a source of herbs and red soil (Anonymous Requesters, 2018a, pp. 5–6). Hence, they put forward the argument that “[t]he way of life of the Indigenous people of [the village] is inextricably linked to the site of the water treatment plant (...). Taking the hill away threatens the culture and economic stability of the community” (Anonymous Requesters, 2018a, p. 6).

The significant resistance from community members towards the project becomes evident – especially as one key goal of the project, the provision of piped water, is not even something they seem to need: Requesters argue that “[t]hey have adequate access to good quality water in their village free of cost, and have independently verified its quality through scientific testing (Anonymous Requesters, 2018a, p. 19)”. They were assisted in attaining this scientific water quality testing by US-based NGO Accountability Counsel (Accountability Counsel, 2020a). Piped water appears even less attractive as it will be delivered at a fee rather than being for free, leading to fear of an overall negative economic impact on the village (Anonymous Requesters, 2018a, p. 6).

A more general concern related to the whole scheme is that the project might be part of a larger attempt at urbanising areas in the periphery of Jamshedpur, where Giddhi Jhopri village is located. Requesters

refer to a “Draft Proposal Master Plan” – a Development Plan issued by the State of Jharkhand for the city of Jamshedpur (see State of Jharkhand, 2016). Even though this plans seems not to be related to the World Bank project, requesters are afraid that the RWSSP might be a means to contribute to the Plan’s goal of establishing “an urban area with treated piped water supply” (Anonymous Requesters, 2018a, p. 7). Urbanisation of the wider Jamshedpur area would be so problematic because it might disqualify affected village from being recognised as tribal areas (Anonymous Requesters, 2018a, p. 7), thereby taking away the local Adivasi communities’ constitutional rights to self-governance (see 3.1.).

One thing that becomes evident from the issues raised: Had there been a proper consultation process with villagers, implementing officials would have had to realise the flaws in their project design and sensed massive disagreement of villagers. This leads us to another set of complaints issued by the requesters. They argue that practically none of the guidelines for information and participation of local populations, that are provisioned in both World Bank guidelines and Indian law, were really met. These alleged major procedural flaws will be discussed in the next chapter.

3.2.2. Procedural flaws

As mentioned above, the Bank recognised in the project planning stage that several Safeguard Policies (Environmental Assessment, Forests, Indigenous Peoples, Involuntary Resettlement, International Waterways) might be triggered. Strikingly, there was no mention of the Safeguard Policy on Physical Cultural Resources at all (Anonymous Requesters, 2018a, 5, 20-22). Environmental Assessment and the provisions of the Safeguard Policy on Indigenous Peoples, even though triggered, are described by requesters to have been implemented in a rather deficient manner.

Even though the need for an Environmental Assessment was acknowledged by the Bank, and the appraisal document states that it was carried out on the state level in all four states (The World Bank, 2013, p. 15), requesters find several flaws in how this process was handled. Quite fundamentally, they argue that the project was categorised wrongly from the start. According to them, it should not have been listed as a category B project (which requires less scrutiny in terms of environmental assessment), but rather as a category A project, because it was, from the outset, likely to have “‘sensitive’ adverse environmental impact within the scope of the definition of a Category A project” (Anonymous Requesters, 2018a, p. 13). That aside, requesters go on to argue that “it appears that no meaningful environmental assessment was carried out” at all (Anonymous Requesters, 2018a, p. 14) after having requested insight into sub-project level documents per the Right to Information (RTI) Act. Even though they had explicitly asked for it, the documents they received did not contain an Environmental Assessment Report (Anonymous Requesters, 2018a, p. 7), leading them to believe there actually was none. They also raise two exemplary issues that might have been covered in a proper environmental assessment, but which the requesters claim have not been dealt with sufficiently: Extraction of water from local rivers and its potential negative impact on wells and ponds in villages (Anonymous

Requesters, 2018a, p. 13) and disposal of toxic residual sludge from water treatment process (Anonymous Requesters, 2018a, p. 15).

A procedural issue that becomes particularly obvious in relation to the Bank's Operational policy on Indigenous Peoples is the lack of local participation and consultation - which should actually be paid extra attention to whenever Indigenous people are concerned by a project (Anonymous Requesters, 2018a, p. 17). Requesters claim that the first time most villagers learnt about the project was the day machinery was brought to the village, and that "project documents do not disclose any attempts made to ascertain if the [project] has broad community support" (Anonymous Requesters, 2018a, p. 18). In order to gain insight into project documents concerning the local implementation level, villagers needed to request copies under the Right to Information Act (again supported by Accountability Counsel), with the photocopying fee itself being a financial challenge to them (Accountability Counsel, 2020a; Anonymous Requesters, 2018a, p. 7). An even more dramatic claim is that villagers' peaceful resistance is said to have been met by policy violence, with medical reports on injuries apparently included in the original request document (Anonymous Requesters, 2018a, p. 11). The supporting NGO Accountability Counsel cites a member of Giddhi Jhopri village who describes how she and other women were beaten when they tried to protest at the construction site (Accountability Counsel, 2020b). There also is a newspaper report describing a "clash" between local residents and the security personnel deployed to the construction site upon the onset of construction activities (Hindustan Times, 2016).

It is argued that some of the procedural problems mentioned are not only in conflict with the Bank's own policies, but rather clash with Indian Law, too. As mentioned above, constitutional provisions for tribal self-governance state that tribal land is not supposed to be transferred to non-tribals in scheduled areas – which, the requesters argue, should also apply to an external corporation building a water treatment plant (Anonymous Requesters, 2018a, p. 22). They also refer to the Panchayat Extension to Schedules Areas Act (PESA), under which any development scheme in a tribal area needs consent from the respective "Gram Sabha" village assembly (Anonymous Requesters, 2018a, p. 8). Requesters admit that there was a Gram Sabha resolution in favour of the water treatment plant. They argue, however, that it did not come from the Giddhi Jhopri Gram Sabha, but from another village, and is thus invalid (Anonymous Requesters, 2018a, p. 10).

In terms of the general process of voicing grievances with the Bank, requesters state that there had been prior attempts at reaching out to Management. After sending an email in spring 2018, they received a visit from DWSD officials, but had to follow up with a second email in June as they had not gotten a "satisfactory response" to their complaints during or after the visit (Anonymous Requesters, 2018a, p. 24). This second email remained unanswered and the next time they heard from Management was only after their request for inspection had been handed in at the IP (Anonymous Requesters, 2018a, p. 24).

3.2.3. Requesters' demands and expectations

Based on the claims introduced in the previous paragraphs, requesters formulate very specific demands and expectations they have for the inspection process. First of all, they want the disbursement of the loan and any construction work to be stopped – at least until diligent social and environmental assessment as well as community consultations have been carried out. They also want the implementing agencies to establish whether tap water is even wanted in the villages in the region, mainly by consulting Gram Sabhas and village heads, and ask for a translation of all documents concerning their case into Hindi and Santhali. Furthermore, a hydrologist is expected to look into consequences of the RWSSP for the Jamshedpur area. They also ask for compensations for any damage caused by the WTP construction, as well as for the police violence some protesters have experienced (Anonymous Requesters, 2018a, p. 2). The Accountability Counsel website also lists the demand to “*dismantle* the unwanted structures from their villages and move them to villages where piped water is desired”, which is not so explicitly stated in the official request itself (Nagar, 2020, emphasis added).

4. The IP process at the World Bank

4.1. Management response

The IP decided to register the request, as it was in line with general requirements (see e.g. The World Bank, 2018, pp. 107–108), and gave official notice of their registration on November 5, 2018, thereby starting the Bank Management's 21 days' time period to draft a response to the issues raised (The Inspection Panel, 2018, p. 5). The Panel received the Management's response, an extensive 104-page document, slightly over deadline, on December 10 (The World Bank Management, 2018). The following paragraphs will sum up the arguments brought forward by Bank Management in this document.

4.1.1. Response to alleged violation of local livelihoods and cultural identity

Even though the cultural significance of the construction site is acknowledged, Management argues that the WTP does not block access to the largest part of the hill, and that any community activities can still take place in its vicinity (The World Bank Management, 2018, p. 14). Villagers' fear that the project might have negative economic impacts on their community – primarily due to water costs – is countered by Management's reassurance that no one will be forced to use tapped water, and that the existing water sources will not be negatively affected (The World Bank Management, 2018, pp. 14–15). They also challenge the requesters' account of general and widespread resistance against the WTP by stating that a survey carried out in Giddhi Jhopri in 2015 showed broad discontent with the quality of existing water sources (The World Bank Management, 2018, p. 15). Lastly, Management reassures that “there is no link between the [...] draft master plan to expand the Jamshedpur urban area and this Project”, in order to resolve requesters' concerns about urbanisation (The World Bank Management, 2018, pp. 8–9).

Overall, the Management response tries to argue that the project's infringement on Giddhi Jhopri inhabitants' livelihoods and cultural identity are far less severe than outlined in the request.

4.1.2. Response to alleged procedural flaws

When it comes to alleged procedural flaws, however, Management concedes to more of the requesters' claims. They acknowledge shortcomings

“[pertaining] to weaknesses in design and supervision, the conduct and documentation of consultations, the disclosure of key scheme-specific documents, non-objection to the initiation of works ahead of an approved Environmental Management Plan (EMP), and failure to apply the Bank's policy on Physical Cultural Resources (OP 4.11)”(The World Bank Management, 2018, p. 6).

While they do admit that OP 4.11 was not triggered, they still point at some steps that were taken in order to avoid the project from infringing on local cultural practices. For example, meetings with villagers seem to have taken place to that effect (not sufficiently documented though), and the contractor apparently even decided to modify the WTP's original layout in order to make it more compatible with the traditional use of the hill (The World Bank Management, 2018, pp. 13–14). They also point at prior analysis of satellite images and photos of the construction site, which, they argue, did not show burial sites. However, they admit that “the typical physical characteristics of Santhal burial sites (located under vegetation) and cremation grounds (...) do not allow these images or pictures to be used to fully confirm their presence or non-presence at the site” (The World Bank Management, 2018, p. 14). It could be assumed that project planners might not have imagined the project implementation to clash with Physical Cultural Resources because Santhal culture is marginalised to a degree that makes their cultural sites invisible to the majority of Indian society, as well as World Bank officials.

When it comes to the allegedly flawed environmental assessment process, Management admits to some failures, too. They elaborate that both general and scheme-specific Environmental Mitigation Plans (EMPs) should have been created by the contractor and handed in with Government for authorisation before construction started, but acknowledge irregularities in that process. The EMP was not handed in in time, it does not evidence sufficient consultation with local communities, and did not contain scheme-specific information (The World Bank Management, 2018, pp. 11–12). Still, they try to rebut the claims made by requesters that the WTP is an imminent danger to local water supply and quality, by arguing that water abstraction of the project has no effects on groundwater, and that the sludge will not be toxic (The World Bank Management, 2018, p. 15).

Management tries to somewhat defend their actions against the accusation of too little consultation with the local community by claiming that “(...) there were significant efforts by the Project and by state and district authorities to ensure consultations among affected communities” (The World Bank Management, 2018, p. 9). They also explain that a Bank team visited Giddhi Jhopri in October and

November 2018, where a significant number of villagers is said to have spoken out in favour of the project and the prospect of cleaner water supply (The World Bank Management, 2018, pp. 15–16). Still, Management has to admit to several procedural shortcomings in the area of community participation. While they received a “No Objection” vote regarding the WTP from the Madhya Ghaghidih Gram Sabha, it would have actually been the Gram Sabha of the smaller habitation of Giddhi Jhopri whose agreement was needed (The World Bank Management, 2018, pp. 9–10). They also acknowledge that a Midterm Review conducted in 2016 mentioned opposition by the local indigenous community, and that they were aware of “two incidents that involved police action at the time works started at the WTP site”, leading them to conclude that “more proactive action with the Project authorities should have taken place to follow up on agreed actions and to appropriately understand and address what appeared to be significant resistance to construction of the WTP by Giddhi Jhopri community members” (The World Bank Management, 2018, pp. 10–11). This rather brief and matter-of-fact reaction to serious allegations of police violence might be due to the fact that interfering too much with whatever problematic means their borrower – the Government of India – sees fit to break up protests is difficult territory for the Bank.

4.1.3. Way forward: Next steps suggested by Bank Management

In their response, Management argue that abandoning the construction site of the WTP in its advanced state is not an option. They point again at the demand for the project that seems to exist in some parts of the community, at potential retaliation requesters might face from those in favour of the project, as well as the safety hazards of a half-finished construction site and potential job losses in the village (The World Bank Management, 2018, pp. 15–16). They then lay out a roadmap of what actions they plan to take about the conflict in the upcoming weeks. Important points include intensified and more systematic consultation processes, the official application of OP 4.11., various compensatory measures (such as granting access to all parts of the hill except the WTP, salvaging and/or relocating any culturally significant objects and finding alternative congregation areas and cremation grounds), redoing and properly implementing the EMP, as well as translating documents to Hindi and publishing them (The World Bank Management, 2018, pp. 16–18).

4.2. IP Team project visit, Eligibility Report and Investigation Plan

After receiving a Management Response, the Panel is supposed to first conduct a visit to the project area, and then proceed to compile its insights in the format of an Eligibility Report, which gives a recommendation to the Board of Directors as to whether an investigation would make sense (The World Bank, 2018, p. 128). In the case discussed here, the project visit took place from December 13 to 19, 2018, and included meetings with the World Bank Country Office in Delhi, Indian Government officials on the federal, state and district level, as well as Giddhi Jhopri community members (The Inspection

Panel, 2022b). The ensuing Eligibility Report, which did indeed recommend an investigation, was sent to the Board of Directors on February 12, 2019 (The Inspection Panel, 2022b).

The report sums up the claims made both by requesters and by Bank Management and adds the Panel's own findings from their visit to India. In all of this, they examine local grievances and Bank misconduct, as well as the potential relationship between the two, and the adequacy of Management's response (The Inspection Panel, 2019b, p. 15). In summary, the Panel appreciates that Management did confront and admit to failures and even suggested steps to deal with them, but it also argues that the Management Response has not made it sufficiently clear "what specific remedial measures will be implemented to address the concerns of the communities (...) [and] how management's proposed actions will achieve compliance at this late stage of implementation" (The Inspection Panel, 2022b). After all, the WTP is in an advanced state of construction, and Management has not even really started the process of renewed consultations they had suggested in their response. As a result, "it is not clear how the proposed actions will be implemented in the timeframe indicated" (The Inspection Panel, 2019b, p. 25). The following paragraph will outline some of the Panel's new findings as well as their evaluation of whatever was already known from the initial request and Management's response.

The Panel underline the severity of violations in regards to OP 4.10 (Indigenous People), stress that Managements' attempts at making the WTP more compatible with the community's needs without actually triggering OP 4.11 (Physical Cultural Resources) were insufficient, and that the EMP was highly deficient (The Inspection Panel, 2019b). Panel members also tried to gain insights into the debate about whether the majority of villagers is in favour of the project and promised tap water availability, or against it for fear of high costs and depletion of traditional sources. They note that they heard "differing views" on the actual voluntariness of joining the paid water scheme, and learned from community members that one reason for their unwillingness to switch to piped water is that it is considered less "pure" (The Inspection Panel, 2019b, 17, 24). Another insight from the field visit pertains to gender. The project design particularly stressed the expected positive outcome for women (The World Bank, 2013, p. 4). Still, a separate meeting conducted by Panel members with local women showed that they were largely opposed to the WTP and valued the integrity of the sacred hill higher than potential project benefits like reduced time spent on water collection (The Inspection Panel, 2019b, p. 19). There also was a new finding regarding the alleged oppression of protest and retaliation against protesters: While files were opened against a number of protesters, none of those allegations resulted in official claims. Still, the opened files prevent the affected community members from receiving character certificates, which has had negative effects on their job opportunities (The Inspection Panel, 2019b, p. 19).

Based on this information, the Panel "recommends carrying out an investigation into the alleged issues of harm and related potential non-compliance with Bank policies" (The Inspection Panel, 2019b, p. 25). The recommendation was approved by the Board of Directors on March 1, 2019 (The Inspection Panel,

2022b). On April 18, 2019, the Panel published their Investigation Plan. This document lists the issues to be targeted by the investigation. According to it, the Panel will investigate the way the Environmental Assessment was conducted, in how far the requirements of OP 4.10 on Indigenous People were met, why OP 4.11 on Physical Cultural Resources was not applied, in how far consultations with and participation of the local community were accounted for, whether there is proof for intimidation and retaliation against community members (and for the Bank's knowledge thereof), and in how far the Bank supervised the Project overall and dealt with problems in an appropriate way (The Inspection Panel, 2019a).

A few months after the Eligibility Report was published and the Board approved the recommendation to investigate, Bineet Mundu, advisor to the affected communities, submitted a supplement letter with additional information on the case to the IP, which was published on the Accountability Counsel website, but not on the IP website (Mundu, 2019). Hence, it is not clear whether it has been taken into account by the Panel and has become an official part of the investigation process or not. It also mainly elaborates on claims already made in the official request, partly with reference to management responses to them, and does provide details but not so much entirely new arguments.³ There will thus not be an in-depth analysis of this document here. Nonetheless, it provides an update on the state of the IP process in August 2019, which was not satisfactory from the perspective of requesters:

“Neither management nor project authorities have made any attempts after the release of the eligibility report to consult with the communities about alternative sites for the Madhhatti or the Shaheed Sthal [sacred sites]. Communities have also not received any Environment Management Plan or any further information about this project in their languages (...) or in any other language. Communities are in the dark and as isolated from the project as they were before submission of their complaints to the Panel.”
(Mundu, 2019, p. 13)

Even though investigations were supposed to last no longer than six months (The Inspection Panel, 2019a, p. 3), there is still no official Investigation Report (The Inspection Panel, 2022b). A quite recent document on the RWSSP, its Implementation Completion Report Review, contains a section on the IP process which explains that COVID-19 has delayed the process (Independent Evaluation Group, 2021, p. 14). Accountability Counsel claim that the Investigation Report has in fact been completed and submitted to the Board of Directors, but that it cannot be made public “since the Bank's consultations with communities on the remedial action plan has had to be postponed due to travel restrictions associated with COVID-19” (Accountability Counsel, 2020c). This cannot be verified, as the Inspection

³ For example, Mundu elaborates on the contested legal nature of Adivasi community land as opposed to simply perceiving it as government land, and argues that the local support for the project Bank Management has repeatedly alluded to has most likely come from non-Adivasi villagers in settlements close to Giddhi Jhopri, not from the Adivasi community itself.

Panel website still shows the investigation to be “ongoing” (The Inspection Panel, 2022b). It is quite evident though that what the affected community is left with at the moment is an unfinished WTP on their sacred hill. There is no information on any further actions or compensations so far.

5. Critical discussion of the case

The following paragraphs will evaluate and critically discuss the case introduced above. A first important remark is that it is actually by far not self-evident that a case registered with the Panel even gets to the state of investigation at all. Since its foundation in 1994, the IP has received 159 requests for inspection, out of which only 119 were registered. While the IP recommended an investigation into a total of 49 of those cases, the Board only approved the investigation of 39 of them – one of them being the RWSSP (The Inspection Panel, 2022a). As it is quite normal for management to react defensively to requesters’ claims and to try everything to avoid an investigation, the fact that they at least admitted to some shortcomings in this case seems rather remarkable (Treacle, Fox and Clark, 2003, p. 254). It could hence be argued that the requesters were already much more successful than many other affected people who had approached the IP with their concerns before them, simply by being granted an investigation. Still, the excessive amount of time that has already gone into this investigation without so much as a follow-up report being published puts a question mark to that success.

Another interesting peculiarity of the RWSSP case pertains to the nature of the project: The majority of projects investigated by the IP were large infrastructure projects, where a rather clear-cut conflict between a mega-project of the developmental state and the local livelihoods it affects becomes evident (Treacle, Fox and Clark, 2003, p. 248). The RWSS, however, was a project specifically designed to improve the everyday lives of people on a very immediate level, mainly through supplying clean water. One could thus argue that it is not the typical IP case, as the welfare of people in the project area was not a marginal area of concern, where the focus was on avoiding too much damage – rather, it was supposed to be at the heart of the project.

While we don’t know anything about support of – or resistance to – the project more broadly, i.e., in other parts of the project area, it might matter that it was a “tribal” community who made the request for inspection discussed here. Coming back to the complex relationship of Adivasi people with the state (Ghosh, 2006; Shah, 2010), one could argue that the RWSSP is but one of many incidents in a conflicted history of the Indian state “developing” its indigenous people. This reading is supported by a short interview given by one of the Giddhi Jhopri Santhal community members to the Indian Express newspaper:

“Sukhram Kisku, 43, a Santhal community member from Giddi Jhopri and one of the complainants, said: *‘Why should Adivasi people always suffer?’* How justified it is to

inflict pain upon us, destroy our ancient land without valid Gram Sabha consent?’ Kisku said they are not opposing the project, being implemented in his village since 2015, but the fact that the authorities ‘undermined’ their consent.” (Angad, 2019, emphasis added)

This suggests that the requesters do not see the struggle against the RWSSP as a singular, isolated event, but rather as one of many struggles for Adivasi self-determination and against state interference they have fought over the years. It also implies that it is not only the material impact of the project that triggered resistance, but in particular the procedural flaws of not respecting Adivasi self-governance and implementing the project in a top-down-manner. It is important to remember that the struggles surrounding the Narmada Dam Project in the 1980s and early 1990s, which were one key factor that led to the establishment of the IP itself (Clark, 2003; Wade, 2011), were substantially driven by the resistance of Bhilala Adivasi communities in the Narmada Valley (Baviskar, 2009). The resistance against the WTP in Giddhi Jhopri in general, as well as the appeal to the Inspection Panel as one measure in that struggle, is thus clearly connected to a wider political and historical context.

What we see at play here are complex relations between the Indian State, the World Bank, and local communities. Safeguard mechanisms within the Bank, including the IP, can be used as tools against the state’s development mission. Ghosh alludes to this when he cites Amiya Kisku, the first president of the Indian Council of Indigenous and Tribal Peoples, who stated:

“If we want to ensure our rights, we have to appeal to the international organizations, like the World Bank and the United Nations. The World Bank is with us, they have the most sympathetic charter for the protection of indigenous peoples' interests and will be *a safeguard against the Indian State*.” (Kisku, 1992, cited in Ghosh, 2006, p. 521, emphasis added)

This links back to complex debates on the (in)ability of the (postcolonial) state to represent all its subjects, the concept of sovereignty, and the role of International Organisations in the areas of development and human rights. It also touches on important conflict lines within the Bank, where the creation of the Panel as an instrument for project beneficiaries to directly challenge not only the Bank but their governments was and is contentious. Clark (2003), for example, points at the “borrower/donor split” on the Board of Directors, where Board Members from borrowing countries were unhappy about the Panel’s investigation being a potential “infringement on their countries’ sovereignty” (Udall, cited in Clark, 2003, p. 13). It also shows, more generally, the very political nature of “development”: World Bank programmes are not implemented in a vacuum, but rather enter a specific political space with its very own history, conflicts, and contestations.

On a very general level, there are broadly three different interpretations of what the IP’s actual role or function is (Sovacool, Naudé Fourie and Tan-Mullins, 2019, p. 889). Many authors see it in a rather positive light and argue that, in spite of its flaws, it still is an “important step forward in the struggle for

accountability” (Clark, 2003, p. 19). Sovacool, Naudé Fourie and Tan-Mullins (2019) disagree with this optimistic account, but also with its very opposite of seeing the IP merely as a tool to divert attentions from the Bank’s failure and its “imperialist Western agenda” (p. 889). They go for a more nuanced interpretation of the IP as an institution that seeks to protect its own independence and legitimacy by balancing internal and external demands and expectations. They also argue that, in doing so, the IP has passed through different phases over the years. The RWSSP request was registered in a phase of contestation that had started from 2013, when it became increasingly difficult for claims to be registered for inspection, mainly because a plausible causal link between a project component and the alleged harm needed to be identified before registration (which, before, had been part of the IP’s eligibility process after initial registration) (Sovacool, Naudé Fourie and Tan-Mullins, 2019, pp. 883–884).

Even though the RWSSP was one of the few cases where a request indeed led to registration, as well as investigation, we still see an unsatisfactory outcome. As mentioned above, there has not been any update on the case from the IP since it started its investigation in 2019. In spite of a good start, the RWSSP case does thus not lend itself to arguing for a positive reading of the IP as a heroic institution. Without any substantial outcomes so far, and the dragging-along of the investigation for over three years, it rather supports (at best) an interpretation of the IP as an institution seeking its own survival, or (at worst) as a tool to disguise whatever still goes fundamentally wrong in the design and implementation of Bank projects. When the IP’s attempts at “[giving] a little voice to [the] powerless people” (Umana, cited in The World Bank, 2018, p. 88) amounts to nothing more than a performative act without any tangible outcome, as seems to be the case with the RWSSP, one cannot help but conclude that the Panel does not really provide accountability in the way affected people would need.

6. Reference list

- Accountability Counsel (2020a) *India: Jharkhand Water Project Impact / Accountability Counsel*, 3 June. Available at: <https://www.accountabilitycounsel.org/client-case/india-jharkhand-water-project/#impact> (Accessed: 30 September 2022).
- Accountability Counsel (2020b) *India: Jharkhand Water Project Overview / Accountability Counsel*, 3 June. Available at: <https://www.accountabilitycounsel.org/client-case/india-jharkhand-water-project/#overview> (Accessed: 30 September 2022).
- Accountability Counsel (2020c) *India: Jharkhand Water Project The Case / Accountability Counsel*, 3 June. Available at: <https://www.accountabilitycounsel.org/client-case/india-jharkhand-water-project/#timeline> (Accessed: 30 September 2022).
- Angad, A. (2019) 'Nod for probe into World Bank-funded project in Jharkhand', *The Indian Express*, 4 April. Available at: <https://indianexpress.com/article/india/adivasi-residents-complain-inspection-panel-finds-anomalies-nod-for-probe-into-world-bank-funded-project-in-jharkhand-5657583/> (Accessed: 16 August 2022).
- Anonymous Requesters (2018a) *First Request for Inspection-20 September 2018*. Available at: https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/cases/documents/128-Request%20for%20Inspection-20%20September%202018_0.pdf (Accessed: 8 August 2022).
- Anonymous Requesters (2018b) *Second Request for Inspection-12 December 2018*. Available at: <https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/cases/documents/129-Second%20Request%20for%20Inspection-12%20December%202018.pdf> (Accessed: 18 August 2022).
- Baviskar, A. (2009) *In the belly of the river: Tribal conflicts over development in the Narmada Valley*. 2nd edn. (Studies in social ecology and environmental history). New Delhi: Oxford Univ. Press. Available at: <http://www.loc.gov/catdir/enhancements/fy0626/2005281620-d.html>.
- Clark, D. (2003) 'Understanding the World Bank Inspection Panel', in Clark, D., Fox, J. and Treacle, K. (eds.) *Demanding Accountability. Civil Society Claims and the World Bank Inspection Panel*. Lanham: Rowman and Littlefield, pp. 1–24.
- Duchicela Santa Cruz, Luis Felipe Atahualpa *et al.* (2011) *Implementation of the World Bank's Indigenous Peoples Policy: A Learning Review (FY 2006-2008)*. Available at: <https://documents1.worldbank.org/curated/en/427941468163488772/pdf/647570WP0Box360s0review0august02011.pdf> (Accessed: 14 August 2022).
- Ghosh, K. (2006) 'Between Global Flows and Local Dams: Indigeness, Locality, and the Transnational Sphere in Jharkhand, India', *Cultural Anthropology*, 21(4), pp. 501–534 (Accessed: 16 August 2022).
- Gill, K., Bhattacharya, R. and Bhattacharya, S. (2015) *The Political Economy of Capitalism, "Development" and Resistance: The State and Adivasis of India*. New Delhi: Oxfam India. Available at: https://www.oxfamindia.org/sites/default/files/WP-Political-economy-of-capitalism-development-and-resistance-state-adivasis-012015_n-EN.pdf (Accessed: 16 August 2022).
- Government of Jharkhand (n.d.) *Tribals In Jharkhand*, 6 September. Available at: <https://www.jharkhand.gov.in/home/AboutTribals> (Accessed: 6 September 2022).
- Halder, T. and Abraham, V. (2015) 'Development, Displacement and Labour Market Marginalisation: The Case of Jharkhand Tribal Population', *Social Change*, 45(1), pp. 45–66. doi: 10.1177/0049085714561839

Hindustan Times (2016) 'Water War', 16 July. Available at: <https://www.pressreader.com/india/hindustan-times-ranchi/20160716/282114930917950> (Accessed: 30 September 2022).

Independent Evaluation Group (2012) *Safeguards and Sustainability Policies in a Changing World: An Independent Evaluation of World Bank Group Experience*. (IEG study series). Washington, DC: World Bank. Available at: <https://openknowledge.worldbank.org/bitstream/handle/10986/2571/638960PUB0Safe00Box0361531B0PUBLIC0.pdf?sequence=1&isAllowed=y> (Accessed: 18 August 2022).

Independent Evaluation Group (2021) *Implementation Completion Report (ICR) Review*. IN: *RWSS for Low Income States (P132173)*. Available at: <https://documents1.worldbank.org/curated/en/846681629853884604/pdf/India-IN-RWSS-for-Low-Income-States.pdf> (Accessed: 8 August 2022).

Misra, S. (2012) *Project Information Document (Concept Stage) - India: Rural Water Supply and Sanitation Project for Low Income States - P132173 (English)*. Available at: <https://documents1.worldbank.org/curated/en/217221468771091447/pdf/PID0Print0P13217301025201201351185627617.pdf> (Accessed: 8 August 2022).

Mundu, B. (2019) *Safeguard Policy violations in IN Rural Water Supply Scheme for Low Income States - Supplement to Complaints*. Available at: <https://www.accountabilitycounsel.org/wp-content/uploads/2020/02/supplement-to-complaints-1.pdf> (Accessed: 30 September 2022).

Nagar, A. (2020) *In Deep Water: Will the World Bank honor its commitments to the poor in an Indian water project?* | *Accountability Counsel*, 3 March. Available at: <https://www.accountabilitycounsel.org/2020/03/in-deep-water/> (Accessed: 30 September 2022).

Shah, A. (2010) *In the shadows of the state: Indigenous politics, environmentalism, and insurgency in Jharkhand, India*. Durham, NC: Duke University Press. Available at: <https://ebookcentral.proquest.com/lib/kxp/detail.action?docID=1172278>.

Sovacool, B.K., Naudé Fourie, A. and Tan-Mullins, M. (2019) 'Disequilibrium in Development Finance: The Contested Politics of Institutional Accountability and Transparency at the World Bank Inspection Panel', *Development and Change*, 50(4), pp. 867–895. doi: 10.1111/dech.12427

State of Jharkhand (2016) *Addendum to Master Plan for Jamshedpur Urban Agglomeration: Draft Proposal*. Available at: <https://udhd.jharkhand.gov.in/Docs/MasterPlans/JamshedpurDraftEng.pdf> (Accessed: 18 August 2022).

The Inspection Panel (2018) *Notice of Registration: Request for Inspection - INDIA: Rural Water Supply and Sanitation Project for Low Income States (P132173)*. Available at: <https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/cases/documents/128-Notice%20of%20Registration%28English%29.pdf> (Accessed: 8 August 2022).

The Inspection Panel (2019a) *INDIA Rural Water Supply and Sanitation Project for Low Income States (P132173) Investigation Plan (April 18, 2019)*. Available at: <https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/cases/documents/128-129-Investigation%20Plan-18%20April%202019.pdf> (Accessed: 8 August 2022).

The Inspection Panel (2019b) *Report and Recommendation on Requests for Inspection - India Rural Water Supply and Sanitation Project for Low Income States (P132173)*. Available at: https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/cases/documents/128-129-Inspection%20Panel%20Report%20and%20Recommendation-12%20February%202019_0.pdf (Accessed: 8 August 2022).

The Inspection Panel (2022a) *Graphs Inspection Panel*, 24 August. Available at: <https://www.inspectionpanel.org/panel-cases/data> (Accessed: 28 September 2022).

The Inspection Panel (2022b) *Rural Water Supply and Sanitation Project for Low Income States (P132173)-First Request | Inspection Panel*, 11 August. Available at: <https://www.inspectionpanel.org>

/panel-cases/rural-water-supply-and-sanitation-project-low-income-states-p132173-first-request (Accessed: 12 August 2022).

The World Bank (2013) *International Development Association Project Appraisal Document on a Proposed Credit in the Amount of SDR 325.1 Million (US\$500 Million Equivalent) to the Republic of India for a Rural Water Supply and Sanitation Project for Low Income States (P132173)*. Available at: <https://documents1.worldbank.org/curated/en/137201468042003514/pdf/763460PAD0P132010Box382077B00OOU0090.pdf> (Accessed: 8 August 2022).

The World Bank (2018) *The Inspection Panel at 25: Accountability at the World Bank*. Washington D.C. (Accessed: 14 August 2022).

The World Bank Management (2018) *Management Response to Request for Inspection Panel Review of the India: Rural Water Supply and Sanitation Project for Low Income States (P132173)*. Available at: <https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/cases/documents/128-Management%20Response-First%20Request%20for%20Inspection-10%20December%202018.pdf> (Accessed: 8 August 2022).

The World Bank Management (2019) *Management Response to Second Request for Inspection Panel Review of the India: Rural Water Supply and Sanitation Project for Low Income States (P132173)*. Available at: <https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/cases/documents/129-Management%20Response-Second%20Request%20for%20Inspection-18%20January%202019.pdf> (Accessed: 18 August 2022).

Treacle, K., Fox, J. and Clark, D. (2003) 'Lessons Learned', in Clark, D., Fox, J. and Treacle, K. (eds.) *Demanding Accountability. Civil Society Claims and the World Bank Inspection Panel*. Lanham: Rowman and Littlefield, pp. 247–278 (Accessed: 28 September 2022).

Wade, R. (2011) 'Muddy Waters: Inside the World Bank as It Struggled with the Narmada Projects', *Economic & Political Weekly*, 46(40), pp. 44–65 (Accessed: 29 September 2022).