

CAO Contribution to the UN Secretary-General's report (General Assembly Resolution 72/247)

About CAO

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), members of the World Bank Group. CAO reports directly to the President of the World Bank Group, and its mandate is to assist in addressing complaints from people affected by IFC/MIGA-supported projects in a manner that is fair, objective and constructive and to enhance the social and environmental outcomes of those projects. For more information, see www.cao-ombudsman.org

Context of Reprisals: Why this matters to CAO

CAO exists to help ensure that people's voices are heard, and responded to, when they have concerns regarding the environmental and social impact of IFC and MIGA projects. For this process to work, it is critically important that people can raise their voices in safety. CAO has experienced many instances in which people have reported that they do not feel safe to raise concerns and that they feel at threat from different actors. This may stop them from seeking help. Or it may mean that they feel threatened once they do. An impacted individual's ability to express concerns freely, and without fear, is essential for the effective functioning of accountability mechanisms like CAO, as well as for the development process in general.

Developing an Approach to Threats and Reprisals

CAO started to develop an approach to threats and reprisals following the release of the Human Rights Watch report, "At Your Own Risk" in June 2015, which raised the issue of the ineffectiveness of the World Bank Group's approach to retaliation against people who speak up against World Bank Group projects, or participate in complaints processes. The challenges set out in the report resonated with CAO, which had encountered the issue of threats and reprisals as a challenge in its operations.

In response, CAO developed an "*Approach to Responding to Concerns of Threats and Incidents of Reprisals in CAO Operations*" following consultation with stakeholders. The Approach focuses on CAO's own operations and sets out guidance for CAO staff and consultants.

Consultations: CAO released a draft Approach during the World Bank Group 2016 Spring Meetings, and actively sought inputs through its network. CAO also posted the approach and a call for inputs on the Business and Human Rights Resource Center website, and solicited feedback through the site's newsletter. During the public consultation process, CAO received inputs and feedback from about 20 NGOs focused in the field of human rights defenders and international accountability, as well as from representatives of UN human rights bodies and expert academics. These included Accountability Counsel, the Center for International Environmental Law (CIEL), Front Line Defenders, the Office of the United Nations High Commissioner for Human Rights (OHCHR), and Themis Research. CAO also discussed the Approach with IFC management, and shared it with the World Bank Group President before posting a revised version in October 2017 for public comment. CAO considered comments during a final comment phase before publishing its final report in April 2018. A summary of consultation inputs, how they improved the Approach, as well as the final document in English, French, and Spanish are available on CAO's website at www.cao-ombudsman.org.

CAO's Approach benefited greatly from the substantial inputs received during the consultation and comment phases. Far from being a static document, the Approach is a learning instrument and work in progress that can be improved over time and adjusted according to new insights and experience. CAO acknowledges the invaluable contribution that individuals and organizations with experience and expertise in the field can bring to the Approach, and will seek ongoing feedback and guidance from all stakeholders, including community members, NGOs, government and company representatives.

Elements of the Approach

CAO's approach commits to continuous and proactive assessment of risk, mostly through desk research and engagement with complainants. It then focuses on prevention over response, in recognition of the very limited tools available to CAO in response to incidents. Given the variety of situations involving such risks that CAO may be faced with, the approach includes a set of principles to help guide CAO staff and consultants when they are confronted with a new situation. Importantly, this includes the intent to prevent harm, which helps focus the conversation when weighing different options for responding to a given scenario. This is balanced with the principle of consent: the person at risk should consent to any measures CAO puts in place. For example, disclosing their identity may put a person at greater retaliation risk, but may also be a risk that individual is willing to take to seek redress. Finally, the Approach sets out some specific commitments regarding how CAO will conduct itself, for example in relation to the use of photographs (only with consent), attention to digital security, or other aspects of confidentiality protection. The Approach includes a commitment by CAO to report on instances of threats and reprisals annually in aggregate. Ultimately, the approach guides CAO staff, but it also communicates to potential complainants what to expect from CAO in a retaliation risk environment.

Implementation

CAO is now implementing the Approach in its operations and has carried out two training sessions for staff, one of these comprising a full day training with an expert from Frontline Defenders. Staff worked through possible scenarios and practices using the guidance provided by the Approach. During a webinar, CAO's field-based consultants were also instructed on the Approach. In addition, CAO has prepared detailed implementation guidance for staff.

Convening around the topic

CAO hosted a dialogue roundtable on the topic of reprisals during the World Bank Group 2018 Spring Meetings. The session "*How are IFI Accountability Mechanisms Responding to Concerns of Threats and Incidents of Reprisals*" was held on Thursday April 19, 2018 at IFC headquarters in Washington, DC. CAO welcomed United Nations High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, as the guest of honor at this roundtable as he was attending the Spring Meetings to commemorate the 70th Anniversary of the Universal Declaration on Human Rights. Around 50 people participated in the roundtable, including representatives of civil society organizations, IFC, MIGA, the World Bank, UN, academia, and the independent accountability mechanisms of the World Bank (IBRD and IDA), Inter-American Development Bank (IDB), European Bank for Reconstruction and Development (EBRD), and United Nations Development Programme (UNDP). Under the Chatham House rule, participants discussed where actors are collectively on the issue of threats and reprisals, progress made to date, and ongoing challenges related to adopting needed policies and implementing effective practices. CAO hopes to build on the roundtable discussion by convening future dialogue on the topic, where possible.