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# Defining organizational social and environmental responsibility : Case study of the world bank environmental and social framework consultation

Alice Schoonejans

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**THÈSE DE DOCTORAT**  
**DE L'UNIVERSITÉ PSL**

Préparée à l'Université Paris-Dauphine

**Defining Organizational Social and Environmental  
Responsibility**

**Case study of the World Bank Environmental and Social Framework  
Consultation**

Soutenue par

**Alice Schoonejans**

Le 4 décembre 2023

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*À Lou et Sid,*

*“Where shall I begin, please your Majesty?”*

*“Begin at the beginning,” the King said, gravely, “and go on till you come to the end: then stop.”*

Alice’s Adventures in Wonderland (1865), Lewis Carroll



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# Acronyms

**ADB:** Asian Development Bank

**AIIB:** Asian Infrastructure Investment Bank

**Bank:** World Bank (as referred to by some stakeholders in the ESF consultation)

**BRICS:** Brazil, Russia, India, China, and South Africa

**BP:** Bank Procedure

**BOT:** Bureaucratic Organization theory

**CIEL:** Center for International Environmental Law

**CODE:** Committee on Development and Effectiveness, a special committee of the Board of Directors of the World Bank, with a strategic role in World Bank reforms

**CSOs:** Civil Society Organizations

**CSR:** Corporate Social Responsibility

**DBA:** Dutch Banking Agreement

**DC:** District of Columbia

**DFIs:** Development Finance Institutions

**DPL:** Development Policy Loan

**DRC:** Democratic Republic of Congo

**E&S:** Environmental and Social

**EIA:** Environmental Impact Assessment

**ESCP:** Environmental and Social Commitment Plan

**ESF:** Environmental and Social Framework

**ESIA:** Environmental and Social Impact Assessment

**EU:** European Union

**FI:** Financial Intermediary

**GHG:** Greenhouse gases

**IBRD:** International Bank of Reconstruction and Development

**ICSID:** International Centre for Settlement of Investment Disputes  
**IDA:** International Development Association  
**IEG:** Independent Evaluation Group  
**IFC:** International Finance Corporation  
**IGOs:** International Governmental Organization  
**IMF:** International Monetary Fund  
**IPCC:** Intergovernmental Panel on Climate Change  
**JICA:** Japan International Cooperation Agency  
**MDB:** Multilateral Development Bank  
**MDG:** Millennium Development Goals  
**MIGA:** Multilateral Investment Guarantee Agency  
**MO:** Meta-Organization  
**MOT:** Meta-Organization Theory  
**NDB:** New Development Bank  
**NTF:** Nordic Trust Fund  
**MS:** Multi-Stakeholder  
**NGO:** Non-Governmental Organization  
**OD:** Operational Directive  
**OP:** Operational Policy  
**OPCS:** Operations Policy and Country Services  
**OPN:** Operational Policy Note  
**OSER:** Organizational Social and Environmental Responsibility  
**PAT:** Principal-Agent Theory  
**PCSR:** Political Corporate Social Responsibility  
**Performance Standards:** IFC environmental and social policies  
**Safeguards:** World Bank environmental and social policies  
**SDG:** Sustainable Development Goals  
**SOT:** Sociological Organization Theory  
**TTLs:** Task Team Leaders  
**UFO:** Unidentified Flying Object  
**UN:** United Nations  
**UNHCR:** United Nations High Commissioner for Refugees

**US:** United State

**WHO:** World Health Organization

**World Bank:** IDA and IBRD

**World Bank Group:** IDA, IBRD, IFC, MIGA, ICSID

**World Bank Management and World Bank Staff:** World Bank Group Leadership and all employees reporting to the World Bank President

**World Bank Board:** all member States representatives consisting of 25 Executive Directors



# Summary

This study explores how Organizational Social and Environmental Responsibility (OSER) is defined in the face of global challenges and increasingly complex and raveled organizational settings. How is responsibility defined on Environmental and Social (E&S) impacts, across different organizations?

Pointing to a conceptual gap on OSER theorizing in Corporate Social Responsibility (CSR), this study uses Ricoeur (1994)'s reflection on responsibility (1994) to unfold the complexities and challenges associated with responsibility definition in general, collective responsibility definition in particular, and, more specifically, OSER definition. While the definition of responsibility has been traditionally analyzed under the lens of philosophy and law, this study builds on the Political Corporate Social Responsibility (PCSR) literature, in particular Palazzo & Scherer (2006) and Schrepf (2012) using Young (2006), in order to characterize responsibility as an ever-negotiated construct and show the value of looking at responsibility from a social science lens. Drawing from the work of Ricoeur (1994), Young (2006, 2011) and Neuhäuser (2014), this study further develops a responsibility definitional framework designed to support an analysis of OSER from a social science standpoint, using a set of questions on responsibility: who is responsible? to whom? for what? on the basis of which standards? what is the connection to the impact? (i.e., is the organization responsible through a forward-looking responsibility to prevent future adverse impacts or stimulate future beneficial impacts?, is the organization responsible through a backward-looking causal responsibility, which may include either direct or indirect impacts, as well as intentional or unintentional impacts?, is the organization responsible through a forward-looking responsibility to repair past impacts it has caused? and is the organization responsible through a forward-looking responsibility to compensate for past impacts it has not caused?).

To examine OSER definition in concrete organizational settings, this study uses the case of the World Bank's clarification of its responsibility in the context of the E&S Safeguards Reform, which consisted in negotiating a new set of World Bank E&S policies, or Safeguards, further called the Environmental and Social Framework (ESF). The ESF negotiation was the object of the widest consultation ever conducted at the World Bank, involving a wide range of different stakeholders, taking place between 2012 and 2018 and archived online in the public domain (World Bank, ESF Consultation Archive website). In order to characterize the organizational context of the ESF negotiation, this study defines the World Bank as a meta-organization (MO), i.e., an organization whose members are also organizations, and shows that MO theory (MOT, Ahrne et al., 2016a) adds value to traditional organizational theories, as it allows us to deepen the analysis of the inner organizational struggles OSER definition may imply.

The result of this study comprises three dimensions: (i) contextual, (ii) processual and (iii) substantive:

- (i) This study shows that responsibility negotiations are embedded in an organizational context which shapes and is shaped by the way responsibility is defined. This implies that a good understanding of OSER requires a good understanding of the specific organizational context at hand. As such, OSER definition at the World Bank is informed by different organizational pressures: the banking pressure, the meta-organizational pressure and pressures linked to the World Bank's competitive environment.
- (ii) Great debates and divides between the ESF stakeholders along the definitional questions of OSER, can be summarized by two emerging non-exclusive OSER models: responsibility as ensuring compliance, responsibility as building capacity and ownership.
- (iii) A substantive analysis of the resulting framework points to the enhanced flexibility provided by the framework, and, building on the study's contextual, processual and substantive results, I argue that the flexibility can be interpreted both as good practice or delay (and individualization) of organizational decision-making on responsibility in the context of heightened organizational pressures.

Through a case study, this thesis contributes to CSR, PCSR and MOT debates on OSER definition. First, the results complexify our understanding of OSER negotiation process, by nuancing the way diverse stakeholders may be opposed or allied in the context of sensitive negotiations on OSER and showing how both arguments and power dynamics are revealed in the context of OSER negotiation. This study also shows that several OSER definition situations can be defined, and that the ESF negotiation is just one of them, thus opening the floor for future studies on the topic. Second, this study contributes to further defining core definitional debates on OSER, showing the underlying organizational mechanism for relatively (un)defined OSER, and the resulting resurgence of the individual in OSER decision-making. Third, this study dives in the call from CSR to further analyze State responsibility, using MOT, and contributes to further describing States' role in contemporary global governance, including by taking into account the distinction between developed and emerging economies. Finally, this study overall further develops OSER theorizing in the social sciences, building on and breaking from traditional philosophical and legal lens on responsibility definition.





# General Introduction

*“Quel sens peut avoir un projet de développement qui réhabilite nos infrastructures, symbole d’un peuple qui se tient debout, qui s’affirme, qui s’assume pleinement, qui ne se laisse plus ‘manger la laine sur le dos’, si les dirigeants qui le portent laissent l’espace et le pouvoir à des entreprises commerciales à la conscience laxiste procéder au sabotage des institutions [et] de la population locale ?”<sup>1</sup>*

Request submitted to the World Bank Inspection Panel on August 3, 2017 (World Bank Group Inspection Panel Requester, 2017)

## Once upon a complaint in the DRC, 2017

On August 3, 2017, the World Bank Inspection Panel, which serves as the World Bank accountability mechanism, received a Request for Inspection for a road project in the Democratic Republic of Congo (DRC) that was financed by the World Bank. The request was submitted by two community members living in Goma and surrounding areas who claimed to have suffered harm from the Bukavu-Goma road works that were carried out as part of the project. The complaints alleged that members of the DRC army and employees of a Chinese contractor, who were employed on the road project, had intimidated community members through violence, forced quarry owners to give away their quarry without financial compensation, and raped women in the community. The alleged harms thus focused on loss of property, but also included claims related to loss of livelihoods, gender-based and other physical violence against the community. The complaint not only accused project workers and soldiers, but also denounced the World

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<sup>1</sup> Translation by the Inspection Panel: *“What is the point of a development project that rehabilitates our infrastructures, the symbol of a people that is standing on its feet, which asserts itself, which takes full responsibility for itself, which is not prepared to be taken for a fool, if the leaders responsible for the project’s implementation give free rein to commercial companies with easy consciences to sabotage institutions [and] the local inhabitants?”*

Bank's role in this project: *“What legitimacy can these people claim, those who torture us, commit violence against us, (...) and this in the name of the World Bank in plain view and under the banner of the World Bank? What does the World Bank have to say about that?”* (Inspection Panel Website, DRC 2015, Request for Inspection, p.1).

While the World Bank's Board of Directors, which is composed of representatives from one or more countries (including one Chair representing China and one Chair representing the DRC), approved the project, and while its implementation was supervised by World Bank staff, the Borrowing State that was responsible for project implementation. As the Inspection Panel only focuses on the World Bank's responsibility, not the World Bank clients' responsibility, the question of organizational responsibility is crucial to Inspection Panel investigation.

This project serves as a compelling example of the intricate challenges associated with questions of organizational responsibility. How should organizational responsibilities be defined in the context of such a project, when:

- (i) the World Bank's Board, composed of different client and non-client states, approves a project,
- (ii) the World Bank staff conducts due diligence and supervises the project
- (iii) the Borrowing states implement the project, albeit Borrowers may be fragile States and the project remains under the World Bank's monitoring.
- (iv) the contractor's employees who were the object of the complaint were employed by a foreign contractor itself employed by the Borrowing State?

To determine its own responsibility, the World Bank uses Environmental and Social (E&S) policies that are meant to define the World Bank responsibility vis-à-vis the States in World Bank projects. The Inspection Panel analyzes the World Bank's compliance with its responsibilities in order to determine the World Bank's responsibility. However, given that many different entities intervene in the project, as described above, defining the responsibility of the World Bank vis-à-vis other actors can be particularly difficult. These challenges point to the lingering definitional ambiguity hovering over the responsibility of

organizations, which will be the object of this study through the following research question: “**How is Organizational Social and Environmental Responsibility (OSER) defined?**”

## **Responsibility: a crucial organizational question**

The definition of responsibilities is now a burning challenge for many E&S issues such as global warming, the degradation of biodiversity, armed conflicts, pandemics, extreme poverty. The role of public and private organizations has been highlighted in international agreements (United Nations (UN) Conference on Environment and Development, 1992, UN, 2015), expert bodies such as the Intergovernmental Panel on Climate Change (IPCC, 2018), and academic work in organizational theory (Capron & Petit, 2011, Scherer & Palazzo, 2011), law (Rajamani, 2006), and political science (Stalley, 2018).

However, questions as to the specific responsibility of organizations remain somewhat open. This presents a significant challenge, as the mere aspiration to shape social and environmental agendas remains a mere illusion without a coherent allocation of roles and responsibilities and a well-structured coordination among diverse organizations. This makes the question of OSER definition all the more crucial and difficult.

The debate on organizational responsibility is lively for all types of organizations, in particular governments, International Governmental Organizations (IGOs), private organizations, and especially in situations where organizations are involved in global value chains, which include the intervention of many different types of organizational actors.

**Governments** remain the primary guarantor of public interest and were recognized as having key social and environmental responsibilities even before private organizations were recognized as having such responsibilities. Recent debates show how delicate the question of governments OSER may be. For instance, the China embassy’s open letter titled “*Who is responsible for the Spread of Covid-19?*” (2020) underscored the importance and sensitivity of determining States’ responsibility in major global challenges and pointed to the need to further explore the nuances and implications of States OSER.

**IGOs’** OSER has also been the focus of particular scrutiny. One of the most recent examples is the controversy around World Health Organization (WHO)’s responsibility in

the coronavirus outbreak (e.g., the Guardian, 2020). In this controversy, WHO has both been pictured as a powerful but inefficient organization and as a powerless and convenient scapegoat. In both cases, whether WHO is actually powerless or powerful, it has been exposed to questions about its responsibility as an organization. Questions around IGOs OSER have been multiplying as IGOs are proliferating (from 37 in 1909 to over 1,000 in 1980 and more than 7,000 in 2017, as explained by Park, 2018). IGOs' perceived ability to create knowledge, set the agenda, facilitate decision-making, interpret rules, monitor implementation, if not enforce rules, evaluate policies, as well as their increasing capital (OECD, 2020) makes them key and powerful players on the international scene (Avant et al., 2010, Schettler, 2020). The power balance between IGOs and States also needs to be analyzed in order to understand the complexities of IGOs' responsibilities vis-à-vis States.

As States and IGO's capacity to provide for public goods is put in doubt (for example Kaul et al., 2003), the public focus has shifted towards exploring diverse sources of financing for public goods, with particular emphasis on public and private entities within the banking sector (e.g., at the UN, see papers applying the United Nations Guiding Principles to **the banking sector**, see for example the Office of the UN High Commissioner for Human Rights, 2017).

In general, beyond public organizations, **private organizations**, including those in the banking sector, have also progressively been recognized as having crucial OSER. Several events have intensified the scrutiny on the responsibility of private organizations, most notably the 2008 global financial crisis, which further amplified the emphasis on private funding sources and their associated responsibilities.

Situations that led to intense debate on OSER, but no specific answer, include when public and private organizations are involved in **global value chains**: e.g., Rana Plaza, see Hira and Benson-Rea, 2017, conflict minerals, see Reinecke & Ansari, 2016, as well as many recent litigation cases, including a 2020 lawsuit against Total related to climate risks (Climate Case Chart, website visited in 2022) or a 2021 lawsuit against the Casino Group, related to allegations that the company sold beef linked to deforestation of lands in Brazil and Colombia (Business and Human Rights Resource Center, 2021).

# Multilateral Development Banks (MDBs): at the cross-road of OSER challenges

At the heart of long global value chains and tasked with addressing global challenges are Multilateral Development Banks (MDBs). MDBs are international governmental organizations taking on a banking role to finance development projects. MDBs' global value chains may involve a wide series of actors, including States, contractors, sub-contractors, security services, Non-Governmental Organizations (NGOs) services, etc. As such, MDBs are a privileged field to study OSER definition in complex organizational settings.

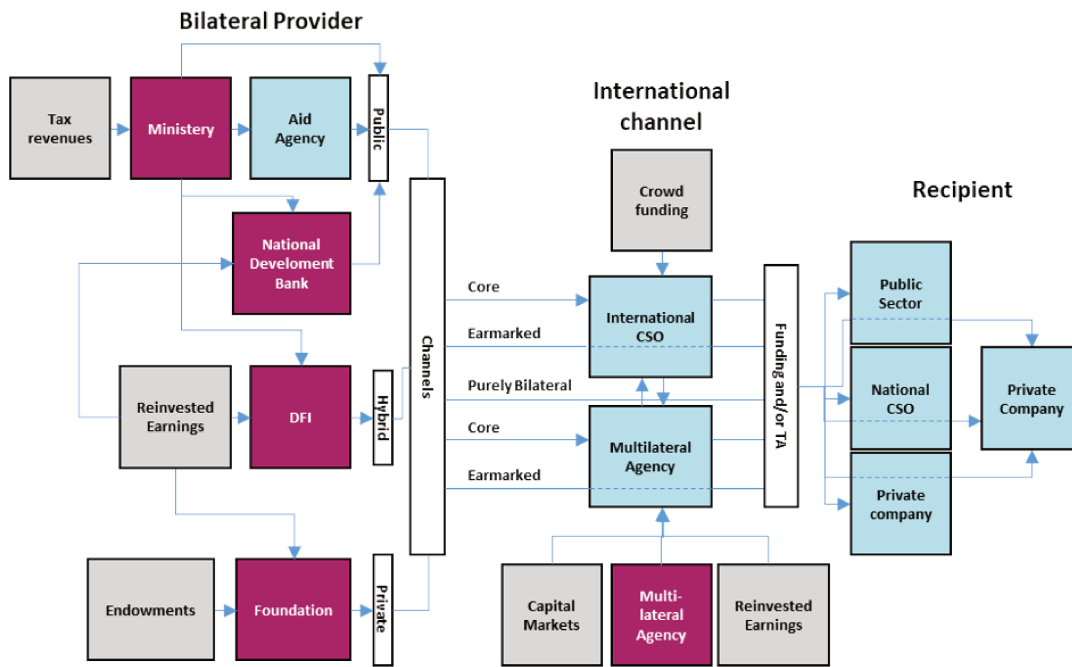
Besides MDBs' role as IGOs and banks involved in global value chains, the need to study MDBs OSER definition is particularly enhanced by their important role in the IGOs universe:

- (i) First, MDBs' role on E&S matters is officially emphasized through landmark multilateral agreements such as the 2030 Agenda and the Paris Agreement.
- (ii) MDBs represent a significant financial source in international financial flows (multilateral outflows increased steadily since 2011 and reached US\$189 billion in 2018, according to OECD, 2020) and have programs and project level impacts that are particularly significant in the IGOs universe, as they are supported by important financial contribution. It is worth noting that their financial assistance is conditioned upon meeting certain requirements, which have evolved throughout the course of their history (see for example, Cormier & Manger, 2022).
- (iii) MDBs also have the power to shape their projects in unprecedented manners in the financial sector, through technical advice, supervision and evaluations of their Borrowers.
- (iv) MDBs have a considerable normative influence, not only over each other but also over their Borrowers, including on national law, and any organizations subject to national law.
- (v) Despite their considerable normative influence, MDBs enjoy a certain level of immunity from legal action, designed to protect the banks from any legal action that

could interfere with their ability to carry out their mandate of providing financial assistance to their member countries. Despite their influence, MDBs also have a mandate which officially and explicitly prohibits any political activity.

- (vi) The development sector program and project-level institutional arrangements are particularly complex, thus leading to an intricate chain of co-responsibilities and difficulty to define each actor’s responsibility.

The below Figure 1 describes the increasing complexity of development finance architecture, showing lines of investment and related stakeholders for both loans and Technical Assistance (TA). While this is not a comprehensive description of the entire development finance sector architecture, it shows the involvement of an expanding galaxy of providers and intermediaries in the delivery of development finance, which raises the question of responsibility sharing on development impacts: how can each organization’s OSER be defined across this complex and raveled organizational settings?



Source: OECD, 2018

Figure 1: The increasing complexity of development finance architecture

The role of MDBs in this context may be difficult to unravel and make the question of OSER definition even more pressing.

## The specificity of the World Bank among MDBs

The World Bank Group, both constitutes a typical MDB, to the extent it reflects trends and challenges faced by MDBs, and a very special MDB, given its particular power among MDBs.

The World Bank Group was officially created on December 27, 1946, as per the Bretton Woods agreements in the context of the UN Monetary and Financial Conference (1-22 July 1944). As explained by Gutner (2017) quoting Mason & Asher (1973), during the World Bank creation, when it came to discussing this organization's name and mandate, there was a terminological debate, as the UK suggested the name "*the International Corporation for Reconstruction and Development*" (purposefully avoiding the word "bank"), the French suggested "*International Financial Institution for Reconstruction and Development,*" and the agreement finally led to the name "*International Bank for Reconstruction and Development*" (IBRD). If the word "*bank*" eventually prevailed, it was, as noted in the report of the commission in charge of writing the World Bank's charter at Bretton Woods, nothing more than an accident: "*[The World Bank] was accidentally born with the name bank... mainly because no satisfactory name could be found in the dictionary for this unprecedented institution*" (Theunis, 1944, quoted by Gutner, 2017, p. 86). This debate illustrates the structural duality of the World Bank, being in essence both a bank and something else.

After the IBRD was created, other World Bank institutions were also established. In 1960, the International Association for Development was created, with 174 member countries as of 2021. While IBRD focuses on middle income developing countries, the International Development Association (IDA) lends money to low income and fragile countries with a zero or very low interest charge and repayments stretched over 30 to 40 years. The World Bank Group further created the International Finance Corporation (IFC, created in 1956, with 189 member countries as of 2021), traditionally lending to private organizations, the International Center for the Settlement on Investment Differences (ICSID, created in 1966, with 154 countries which ratified the related convention as of 2021), dedicated to conciliation and arbitration on investment differences, and the Multilateral Agency for Investment Guarantees (MIGA, created in 1988, with 181 member countries as of 2021),



dedicated to risk insurance and loan guarantees. The “*World Bank*” specifically refers to IBRD and IDA, as opposed to the “*World Bank Group*,” which refers to IBRD, IDA, IFC, MIGA and ICSID.

Initially dedicated to the reconstruction of countries after the Second World War, whose mission was supplanted by the Marshall Plan, the World Bank changed its mission in 1948 to finance and support development projects. Therefore, the World Bank finances included infrastructure projects (e.g., roads, urban regeneration, and electricity), and further extended the scope by including agriculture and rural development (e.g., irrigation and rural services), human development (e.g., education, health, gender), environmental protection (e.g., pollution reduction, establishing and enforcing regulations), and governance (e.g., public administration, anti-corruption, legal institutions development). The World Bank Group further refined its mission setting the World Bank twin goals in 2013: (i) ending extreme poverty or reducing to 3% globally the number of people living on under \$1.25 a day by 2030, and (ii) building shared prosperity or stimulating growth of the bottom 40% of the population. The World Bank also diversified its set of products, now including the financing of projects, programs and policy development. The World Bank expanding mandate reflects the wider movement among MDBs, which have undergone a vertiginous expansion since the 1945 and are now engaged in all regions and almost all sectors, overlapping with various other international organizations.

Despite the overlap between the World Bank and various MDBs or other IGOs, the World Bank retains specificities: its important role, with substantial budget among MDBs (with 30 billion and 16 billion committed respectively in 2016 for IBRD and IDA, and provisions of a total of 500 and \$458 billion each since their creation), its global reach (as opposed to many MDBs, which remain regional), its technical expertise accumulated since 1947 in all sectors and impressive number of expert studies and advisory reports, thus leading to a strong ability to shape concepts in the development discourse (Schettler, 2020, Park, 2018, Möllers, 2008) and set the agenda of international summits such as the G7/G8 and G20 (Schettler, 2020).

Being both a reflection of MDBs dynamics and one of the most if not the most powerful MDB, the World Bank constitutes a privileged organization to study OSER.

# The World Bank's great responsibilities and criticisms

In the context of its relative power and immunity (International Organizations Immunities Act, 1945), the World Bank's alleged or substantiated adverse impacts have also resulted in particularly strong criticism since the 1980s, particularly focused on the World Bank's and other MDBs' E&S adverse impacts, exposing its responsibility and threatening its reputation and operations. Indeed, World Bank activities trigger a series of E&S risks (pollution, the degradation of biodiversity, involuntary resettlement, labor health and safety, etc.).

Until 1970, the World Bank had no E&S provisions (Park, 2008), although World Bank President Robert McNamara and Vice President James Lee claimed the organization did at the 1972 Stockholm Conference, which forced them to *"catch up to those promises and make them come true"* (Interview of Goodland, 2005, World Bank Group Oral History, p. 4). At the time, social and environmental impacts were handled by very few people within the World Bank, including Michael Cernea, a Romanian-born sociologist, Gloria Davis and Scott Guggenheim, two American-born anthropologists, both in charge of the social impacts of the projects, as well as Robert Goodland, an English-born environmental specialist, who was in charge of the environmental impacts of the projects. Impact management was done on a project-by-project basis, and the social and environmental experts only focused on the riskiest projects with the most severe impacts. This had disastrous consequences as even some of the riskiest projects were *"designed with zero social and environmental precautions"* (Interview of Goodland, 2005, World Bank Group Oral History, p. 5). One example is the proposed Chixoy Hydroproject, in which social screening was delayed and never took place. Therefore, the project was designed without resettlement precautions for the Maya-Achi Indigenous Peoples: *"A decade later, more than 400 Indigenous Peoples were tortured and killed in a series of massacres. As the World Bank made a second loan for this dam in 1985, after the 1982 Chixoy Massacres, it was found complicit, but refuses to pay reparations"* (Interview of Goodland, 2005, World Bank Group Oral History, p. 3).

Although the World Bank progressively introduced a *"wholesale policy approach"* (Interview of Goodland, 2005, World Bank Group Oral History, p. 3) in 1980s, to go

beyond “*the firefighting, the project-by-project retail approach*” (Interview of Goodland, 2005, World Bank Group Oral History, p. 5), it still faced major scandals. For example, the Narmada case, running throughout the 1980s and 1990s provoked an outcry, as it prompted major resettlement and environmental concerns. In the context of the Narmada project, the agreement between the Indian government and the World Bank implicitly accepted that only project-affected people with a legal title to their property would be compensated after resettlement, de facto excluding those with customary property (Schettler, 2020). Among the 200,000 people meant to be resettled, the majority were Indigenous Peoples without property titles, which meant that Indigenous Peoples were to be resettled without compensation, given that the relevant national framework did not recognize compensation for land without titles (Schettler, 2020). The protest initiated by Medha Patkar gained momentum and evolved into a significant transnational movement, leading the World Bank to initiate an independent review of the Narmada Project. This review, known as the Morse report, brought to light numerous social and environmental concerns associated with World Bank projects.

During the 1980s, the World Bank also faced increasing criticism for its implementation of structural adjustment programs, which were advocated jointly with the International Monetary Fund (IMF). These programs aimed to address economic challenges faced by developing countries. The World Bank and IMF supported a set of policy recommendations commonly associated with the “*Washington Consensus*,” which included measures such as trade liberalization, privatization, market deregulation, and the reduction of public spending. Under these programs, borrowing countries were often required to undertake specific policy reforms as conditions for accessing financial assistance from the World Bank. These conditions were commonly referred to as loan conditionality. At the time, the World Bank had a clear stance that States needed to step back from regulating development: “*Now there is clearer evidence, from both developing and industrial countries, that it is better not to ask governments to manage development in detail.*” (World Bank, 1991, p. 4). Those structural adjustment programs were denounced as imposing Western neo-liberal reforms onto vulnerable countries and peoples to secure Western interests by making them dependent on the Western world (Devin, 2016). This orientation was strongly contested and proved disastrous for the World Bank’s reputation and performance: the Wapenhans Report (1992) stressed the declining performance of the World

Bank portfolio. On May 27, 1993, US civil rights activists denounced the effects of Bank policies in front of 11 African heads of State: *“They no longer use bullets and ropes. They use the World Bank and IMF”* (Jackson quoted by Rich, 1994, p. 34). Criticism came both from the Left, regarding interference from Western neoliberal schemes in developing countries, and the Right, with doubts as to the World Bank efficiency (Gutner, 2017). The same year, Republicans proposed an amendment to eliminate all U.S. funding of one of the World Bank’s two principal lending branches, the IBRD. According to Rich (1994) quoted by Gutner (2017), the motion was defeated by only two votes.

Criticism even increased from within the World Bank itself, especially with the speeches Stiglitz made as the Chief Economist of the World Bank, between 1997 and 2000, promoting a *“post Washington consensus,”* i.e., the introduction of new World Bank tools, such as sound financial regulation, competition policy, policies encouraging the transfer of technology and transparency, and the broadening of World Bank goals, expanding them from economic growth to environmental sustainability, equity and democracy. Stiglitz also advocated for ownership of borrowing countries.

All those examples point to the fierce criticism and high expectations that the World Bank Group has been facing since the 1980s and confirm the importance of studying the ways the World Bank Group OSER is defined.

## **The rise of competition, questioning the World Bank’s OSER**

In addition to mounting criticism, the World Bank has been facing more and more competition by the multiplication of other sources of finance, thus destabilizing the World Bank’s relative monopole and pushing it to take new stances concerning its OSER.

China especially started to pursue a strategy of contestation through counter-institutionalization, as opposed to an internal contestation that the Chinese Executive Directors could have pursued at the World Bank’s Board level (Schettler, 2020). This strategic approach involves the establishment of alternative multilateral institutions with the aim of not only bypassing established institutions but also exerting competitive pressure on them. By creating these competing institutions, China seeks to challenge the existing order and

introduce alternatives that align more closely with its own interests and priorities. This proactive strategy of counter-institutionalization enables China to assert its influence on the global stage and reshape the dynamics of multilateral cooperation. After creating the China Development Bank, the Chinese government has namely led the establishment of the Asian Infrastructure Investment Bank (AIIB) and of the New Development Bank (NDB) by the BRICS States (Brazil, Russia, India, China, and South Africa). China holds the largest share in both institutions and hosts both headquarters (in Beijing and Shanghai, respectively). Contrasting with the nomination of the World Bank's President, traditionally done by the US President who appoints an American President to the World Bank, the AIIB's first President was Jin Liqun, a Chinese national, and the NDB was first headed by an Indian national, K. V. Kamath.

The AIIB and the NDB offer not only a competing source of capital investment, but also an alternative development model based, at least rhetorically, on a stronger recognition of sovereignty and a stronger role for Borrowing States. While the United States (US) and Japan were initially opposed to the new AIIB, other major countries signed up as founding members, including Great Britain, Germany, France, and South Korea. Even though this creates new opportunities for collaboration between MDBs and does not clearly indicate a clear normative race to the bottom given these recent institutions have also established E&S requirements (Dann & Riegner, 2019), this still puts the World Bank's business model under economic pressure. Those new banks are a potential opportunity for Borrowing States to engage in forum shopping, questioning the World Bank's monopole and making the World Bank more dependent on Borrower's preferences. As such, this constitutes a power shift between the World Bank and Borrowers, and a rise of Borrowers' countries' weight.

## **The World Bank's legitimacy crises and need to re-assert role and responsibility**

Both the fierce criticism against the World Bank and the rise of competition led to what can be analyzed as a legitimacy crisis. Legitimacy in IGOs has been seen as one determinant of its power and efficiency (Ormaza & Ebert, 2019). As the perceptions of

the IGOs tend to change more rapidly than their organizational design, this can lead to legitimacy crisis (Ormaza & Ebert, 2019).

The World Bank is internally constituted of a wide variety of States, thus enhancing its legitimacy and power, as it represents a total of 189 countries, represented by 25 Executive Directors, nominated by the members countries ministers of finance or ministers of development, who provide the financial base or subscription for the MDBs. However, where the organization's constraints are not interiorized nor accepted by its members anymore, IGOs authority and legitimacy is fleeting. This legitimacy is all the more fragile as internal dynamics at the World Bank's Board level are not easy to manage. Indeed, one usually distinguishes two types of Board members:

- “*Part 1*” are non-Borrowing State. They include countries that have historically been considered as “*developed*”, like France, Germany, Japan, and the US.
- “*Part 2*” are Borrowing States. There is a wide variety of members among Part 2, as they include countries like Bolivia, China and the DRC.

The Member States of the World Bank exhibit a diverse range of perspectives, varying degrees of development, and distinct geopolitical and economic interests. As a result, achieving consensus and unity among all Member States can be challenging, and managing crises of legitimacy can prove even more difficult. As noted by Devin (2016), the institutionalization of IGOs always remains fragile, governed by the ever-changing interests of its members and by the fact that what may be functional for some may not be for others or by the fact that what may be functional at a certain point in time may not be at another.

In the context of its somewhat unprecedented power and fragile legitimacy, the World Bank's reassertion of its role and responsibility, especially on sensitive issues like E&S impacts, is not easy. This makes the study of OSER definition all the more critical.

Responses to legitimacy crises and re(definition) of OSER can take many forms. The World Bank's development of E&S policies is one of them.

The World Bank's E&S Safeguards are all the Operational Policies (OPs) that structure the World Bank's projects on E&S subjects. In 2010, the World Bank had 10 Safeguards,

on the following subjects: Environmental Assessments (OP 4.01), Natural Habitats (OP 4.04), Forests (OP 4.36), Pest Management (OP 4.09), Physical Cultural Resources (OP 4.11), Involuntary Resettlement (OP 4.12), Indigenous Peoples (OP 4.10), Dam Safety (OP 4.37), Projects Relating to International Waterways (OP 7.50) and Projects in Disputed Areas (OP 7.60). Each is associated with a specific World Bank Procedure (BP) explaining how the World Bank staff shall implement the World Bank's policies. On each of these subjects, the Safeguards establish how to avoid, reduce and mitigate the World Bank projects adverse impacts. Safeguards are accompanied by operational guidelines to support their implementation.

These Safeguards were created one by one in the course of the 1970s and 1980s to respond to the types of criticisms and pressures described above. These policies were institutionalized in the late 1980s, and very much reflecting the major criticism and scandals the World Bank faced in those years, as they were often a direct response to such legitimacy crisis.

In the wake of the rise of criticism and the institutionalization of E&S policies, particularly in the context of the Narmada case and Morse report described above, the World Bank also established the World Bank Inspection Panel. The Inspection Panel is the first accountability mechanism among MDBs. It receives complaints from people and communities who believe that they have been, or are likely to be, adversely affected by a World Bank-funded project. These complaints can relate to a wide variety of subjects, including the destruction of biodiversity, the theft of property, lack of compensation in the context of resettlements, deterioration of living conditions, rapes, etc. If the complaint received by the Inspection Panel is eligible, it may conduct an investigation independently from World Bank Management and report on such investigation directly to the World Bank's Board. The Panel's investigation reports are public and require a response from World Bank staff, who must address the E&S gaps identified by the Panel. Therefore, the Inspection Panel functions as a semi-independent quasi-judicial safeguard enforcement mechanism (Dann & Riegner, 2019), which does not allow for E&S Safeguards policies to be exclusively considered as mere dead letters. However, E&S standards as well as associated accountability mechanisms have been criticized for being more efficient in building legitimacy than actually addressing E&S adverse impacts (see for example, Alamgir &

Banerjee, 2019). Nonetheless, E&S standards are promoted by Civil Society Organizations (CSOs) and in certain cases, the Inspection Panel was recognized as instrumental for community affected people by affected people themselves (see for example, Loyombo & Sinafasi (2017), who describe how an Inspection Panel case led to the recognition of the Pygmies as Indigenous Peoples in the DRC).

It is also important to note that the Safeguards are triggered once a project is considered for financing. Social and environmental specialists assess the anticipated project as part of the appraisal process and determine whether the project contains risks related to any of the Safeguards (e.g., indigenous people, involuntary resettlement, natural habitat, etc.). As such, the Safeguards do not exactly directly influence project choices or high-level country priorities, but rather inform decision making on whether an anticipated project should be approved, and how the anticipated project E&S risks can be managed. Both project choices and project management are concerned with project outcomes but in a different manner. Project choices are stirred by different factors, including country strategies, bilateral negotiations with countries, World Bank's objectives in terms of social and environmental considerations, including the climate agenda. This is tied to but distinct from E&S risk management.

Indeed, the E&S Safeguards reform constitutes a key definitional moment for the World Bank's OSER, but the E&S Safeguards are first and foremost about E&S risk management, not the way E&S goals are taken into account in the initial selection of projects. Therefore, while this PhD research will certainly address the topic of project choices, its primary focus lies in exploring the World Bank's responsibility concerning the handling of E&S risks and impacts once projects have been selected.

## **The E&S Safeguards Reform as a key moment of OSER definition**

As we have seen, the history of Safeguards can be seen as a history of OSER definition and redefinition, through different processes. One of these key moments is the World Bank reform of its E&S Safeguards, whose goals included clarifying the World Bank's



responsibility on E&S matters and was the object of a wide consultation to develop the new Environmental and Social Framework (ESF). This is the chosen case for this study.

Many studies have already touched upon the ESF from a political science and law perspective. However, most articles do not focus on the negotiation itself, but rather on specific topics of the ESF, such as workers and indigenous peoples (Lewis & Söderbergh, 2019), land-related issues (Brunori, 2019), human rights (Mares, 2019). A few studies provide an in depth research on the negotiation process (e.g., Houghton, 2019, Schettler, 2020). However, they do not focus on responsibility definition itself, even though they remain very useful to further inform research on responsibility negotiation within the ESF deliberation. This study will look at the ESF under the lens of this study's research question: *"how is OSER defined?"*

## **Dissertation organization**

This thesis will be structured with the following chapters.

The literature review (Chapter 1) will show that there is a definitional gap on OSER in the Management literature and use Ricoeur (1994) to focus on responsibility as a concept. It will show how Ricoeur (1994), Palazzo & Scherer (2006) and Schrempf (2012) drawing on Young (2006) in Political Corporate Social Responsibility (PCSR), as well as Neuhäuser (2014), can be used to fill the gap in terms of theorizing OSER and to develop a responsibility definitional framework that can be applied to concrete organizational settings. It will further focus on additional Corporate Social Responsibility (CSR) gaps related to the study of interconnected stakeholders' claims, emerging economies, underlying institutional mechanisms, global value chains, and States, showing that the World Bank is a privileged object of study to further advance CSR studies. With the understanding that there is no negotiation without a defining context, this study will further argue that the World Bank can be defined as a Meta-Organization (MO) and that MO theory (MOT) can be used to complement PCSR and analyze the World Bank organizational context.

The methodology (Chapter 2) will further be presented, focusing on the concept of qualitative case study, the relation between the researchers and the field, and data collection

and analysis in an MO on the question of OSER. It will also provide more contextual details on the case at hand for this case study: the ESF consultation, by describing the related agenda, stakeholders, timeframe, and the three dimensions of this case: contextual, processual and substantive.

The results (Chapter 3) will further be divided in three sections.

This study provides contextual insights in multiple aspects. Firstly, it builds upon a preliminary analysis of the relationship between the organizational nature of the World Bank and its OSER. Additionally, it examines the case of the development of the World Bank ESF, which aimed to enhance clarity regarding the World Bank's OSER. The findings of this study indicate that the organizational characteristics of the World Bank significantly influence the negotiation and definition of responsibility within the institution. By exploring these dynamics, the research highlights how the World Bank's organizational structure shapes the conceptualization and implementation of responsibility in its operations.

- First, this study presents contextual results. It builds upon an analysis of the relationship between the organizational nature of the World Bank, which constitutes the ESF negotiation context. It shows that this organizational nature has various implications for the World Bank OSER. It further notes that the ESF consultation is also embedded in this negotiation context, and reflects the implications of the World Bank nature on OSER negotiation, suggesting that the World Bank's organizational characteristics structure the ways responsibility is negotiated and defined. As a development bank and as an MO, the World Bank needs to maintain its legitimacy, keep its clients but also its members' capital, and maintain its influence on E&S matters. I further show how the organizational pressures described in the contextual result shape the way the World Bank ESF is negotiated, showing how OSER negotiation is embedded in this organizational context.
- Second, the study presents processual results, drawing from the study of the ESF consultation process (2012-2016). I argue that the question of responsibility definition and associated questions were raised throughout the consultation, with very defined distinction between different stakeholders' positions – on the one hand CSOs and Part 1 Board members, on the other hand, Clients and Part 2 Board members.

I use the responsibility definitional framework developed in the literature review to show how these different stakeholders' take on OSER provided response to the question of responsibility definition, showing that this can be summarized as the emergence of two different OSER models for the World Bank: the World Bank's responsibility to ensure clients' compliance and the World Bank's responsibility to build clients' capacity and ownership.

- Third, this study presents substantive results, based on the final ESF as approved unanimously by the Board, which is characterized by its flexibility. This flexibility may be interpreted both as maximizing and minimizing the World Bank's responsibility, thus conveniently reconciling the competing rationale on OSER and at least formally keeping the World Bank's unity. I explore how this flexibility may be interpreted as a best practice and as a means to delay the World Bank's decision on its organizational responsibility in the context of the World Bank's organizational characteristics.

In the discussion (Chapter 4), I show how this case study contributes to CSR, PCSR and MOT debates on OSER definition. First, this study complexifies our understanding of OSER negotiation process, by nuancing the way diverse stakeholders may be opposed or allied in the context of sensitive negotiations on OSER. I also show how both arguments and power dynamics are revealed in the context of OSER negotiation. Second, this study contributes to further defining core definitional debates on OSER, showing the underlying organizational mechanism for relatively (un)defined OSER, and the resulting resurgence of the individual in OSER decision-making. Third, this study dives in the call to further analyze State responsibility, using MOT, and contributes to further describing States' role in contemporary global governance, including by taking into account the distinction between developed and emerging economies. Finally, this study develops OSER theorizing in the social sciences, building on and breaking from traditional philosophical and legal lens on responsibility definition.

Figure 2 summarizes this study's architecture.

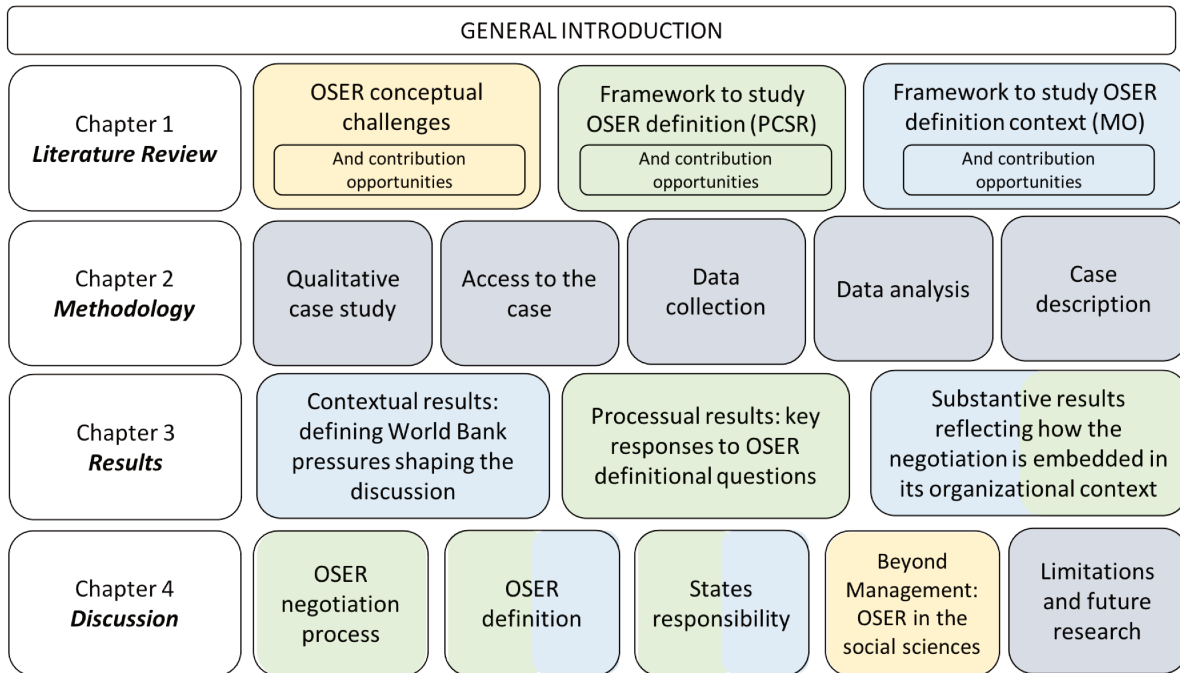


Figure 2: Structure of the PhD

The above architecture is meant to show that certain chapters particularly resonate with one another, either because of how PhD are usually structured or because of how this thesis was specifically developed: focusing on substantive, processual and contextual dimensions of OSER definition. As such and in particular, beyond the fact that the discussion chapter builds on and responds to several gaps identified in the literature review, the Results also respectively echo the literature review, as it starts with contextual results, building in part on the contextual framework defined in the literature review by using MOT, and then includes results on the types of debate that characterized the negotiation, building on the responsibility definitional framework developed in the literature review using PCSR and philosophical reflections, to then analyze how the context and process can be linked in an interpretation of the substantive results, the ESF framework.



# Chapter 1

## Literature Review

*“We often go on discussing problems in terms of old ideas when the solution of the problem depends upon getting rid of the old ideas and putting in their place concepts more in accord with the present state of ideas and knowledge.”*

Dewey (1926)

This present Chapter is meant to conduct a literature review, i.e., set the theoretical ground to address the empirical research question which, as the reader recalls, has been defined as the following: how is OSER defined?

The literature review will describe the conceptual roots of the notion of responsibility, drawing on Ricoeur (1994)’s philosophical reflections as well as legal considerations, to explain how raising the question of organizational responsibility today is crucial but entails many challenges that are not fully addressed in the Management literature (1.1). Redefining the concept of responsibility, this study will particularly build on the PCSR literature (Palazzo & Scherer, 2006, Schrempf, 2012), combining it with Young (2006, 2011), already used in the PCSR literature, but also Ricoeur (1994) and Neuhäuser (2014); finding that responsibility is an ever-negotiated social construct, thus leading the thesis to re-define the theoretical question by adding an emphasis on negotiation. This will enable me to define an OSER definitional framework to study OSER (1.2). As negotiation is always *hic et nunc*, set in a context, we will also need to define the negotiation context, and explore how to characterize the World Bank as an organization in order to investigate the question of responsibility negotiation in its practical organizational context, showing the relevance of the concept of MO to define IGOs like the World Bank (1.3).

## 1.1 The concept of OSER

In order to tackle the question of organizational responsibility, one has to first understand the key associated challenges. In this study, I argue that organizational responsibility challenges are deeply cross-cutting. The choice to use the term OSER instead of CSR is informed by the idea that questions on organizational responsibilities regarding E&S matters go beyond the sole field of CSR, although CSR remains a privileged field to study related questions, and that OSER encompasses more explicitly all types of organizations as well as all types of environmental matters. While Management is an important discipline to explore the question of organizational responsibility, it is characterized by a key definitional gap. The Management literature has extensively described the emergence of organizational responsibility in organizations, public policies and social movements, and provided several definitions of CSR, but it has not dived into the conceptual roots of the notion of responsibility, which are key to deepening our understanding of today's challenges to define OSER. Therefore, resurrecting the conceptual roots of responsibility and renewing our understanding of questions regarding organizational responsibility is crucial to deepen our understanding of challenges regarding responsibility definition in the context of a study on OSER definition. This study uses Ricoeur (1994) as a key author to deep dive into conceptual bottlenecks about responsibility. Taking stock of Ricoeur (1994)'s philosophical lessons, this study shows that there is a need to renew our understanding of organizational responsibility, beyond philosophy and law, using social science lens and studying concrete cases. Building on PCSR and combining Ricoeur (1994), Neuhäuser (2014) and Young (2006, 2011), this study attempts to bridge the CSR definitional gap by creating a definitional framework for responsibility, which consists in a set of open questions to study OSER definition. It further shows that this set of open questions has to be applied to a concrete case, and expand on how a study of the World Bank is able to bridge several current literature gaps in CSR and PCSR.

This section will thus present why OSER constitutes be a crucial question in today's world (1.1.1.). It will further focus on the significance of the Management literature on E&S responsibility as well as key definitional gaps related to responsibility in Management research (1.1.2.). In order to bridge this gap, it will use Ricoeur (1994)'s philosophical reflection on responsibility to deepen our understanding of conceptual difficulties associated with responsibility (1.1.3) and explain how the modern expansion of responsibility poses specific challenges to define responsibility (1.1.4.) before introducing the concept of phronesis as a possible solution suggested by Ricoeur (1994) to tackle these challenges (1.1.5).

### 1.1.1 Global stakes of OSER definition

In the context of globalization and the erosion of the States' traditional roles (Djelic & Sahlin-Andersson, 2006, Scherer & Palazzo, 2011, Schrempf, 2012), global governance, defined as the process of setting global rules and producing global common goods, is polycentric and multilateral: the horizon of history is no longer exclusively shaped by States exercising the monopoly of legitimate violence. International institutions, CSOs, and private organizations also play a major role in forging the horizon of sustainable development (Braithwaite & Drahos, 2000, Detomasi, 2007, Scherer & Palazzo, 2011). Organizational responsibility, in that context, is raised as a crucial collective question: while objectives and rules are being established on E&S matters (e.g., Agenda 2030, SDGs, E&S standards), an important question remains to define who bears what responsibility for organizational E&S issues. Questions as to who is responsible for what in E&S challenges keep arising, especially as interactions are increasingly intertwined and transnational, in inter-organizational arrangements and interactions which are more and more complex and diverse.

Roles and responsibilities are somewhat diffused considering the decrease of State power (Rhodes, 2007), with a State that has often been seen as "*opaque and absent, denying responsibility and lacking capacity*" (Maher et al., 2019, p. 1), or at least the fundamental ambiguity of State's role (Maher et al., 2019), the traditional lack of assignment of any political role to companies (Scherer & Palazzo, 2011) as well as the transition from a "*managerial capitalism*" to a "*shareholder capitalism*" resulting in what Acquier (2016)



citing Martinet (2014) called “*organizational liquefaction*,” (p. 6, 75) and, finally, the relative weakness of international organizations compared to States and private corporations (Ahrne, 2016a). In this context, the precise architecture of global responsibility construct, and associated specific organizational responsibility, remains difficult to grasp: in the midst of these organizational actors’ interactions, at the heart of global governance, a vacuum seems to linger, and requires to be filled. Responsibility for E&S issues is now presented as being composite and incidentally common, shared, collective, but remains relatively undefined for each specific actor.

Supiot (2015) theorizes how States’ relative absence is actually an open door to the restoration of allegiance relationship between several public and private actors, in the absence of clear State regulation on the public good. According to Supiot (2015), the lack of State regulation gives rise to allegiances on the global value chains between financiers (as suzerain) and Borrowers (as vassals), Borrowers (as suzerain) and contractors (as vassals), contractors (as suzerain) and sub-contractors (as vassals), with mechanisms of capacity building and control which have three characteristics: surveillance of the vassal by the suzerain, support of the vassal by the suzerain and responsibility of the suzerain for the vassal’s actions. However, this “*responsibility*” of the suzerain on the vassal is not clearly defined and while Supiot (2015) argues that these renewed links of allegiances would reflect the absence of hard law on global issues in the context of intricate global value chains, the related implications for this “*responsibility*” on global governance are not clearly identified. This theory points to renewed dependency and power relationships in the context of a global market and the difficulty to define regulation at the global level, but also indicates how crucial a study on the actual definition of each actor’s responsibility is.

The very nature of pernicious or wicked problems (Conklin, 2005, Rittel & Webber, 1973) and grand challenges (Ferraro et al., 2015) makes it even more difficult to define the roles of each organization, in the absence of a clear definition of the problem, societal ideals, possible solutions, and the actors’ power (Reinecke & Ansari, 2016). In such circumstances, agents are “*caught in causal webs of interlinking variables spanning national boundaries that complicate both their diagnosis and prognosis*” (Reinecke & Ansari 2016, p. 299, quoted in Afländer, 2021, p. 8). The question of the definition of responsibility

is particularly challenging as controversies about what we want, what we know and what we can do remain unresolved. Indeed, problems and ideals such as development and sustainable development – for which responsibilities are to be delineated – are in general ill-defined and can very well be conceptualized as verbal agreements (Chalmers, 2011), that is to say apparently consensual, but, in reality, extremely controversial.

Defining OSER may thus ultimately appear as a lost cause preventing any collective action.

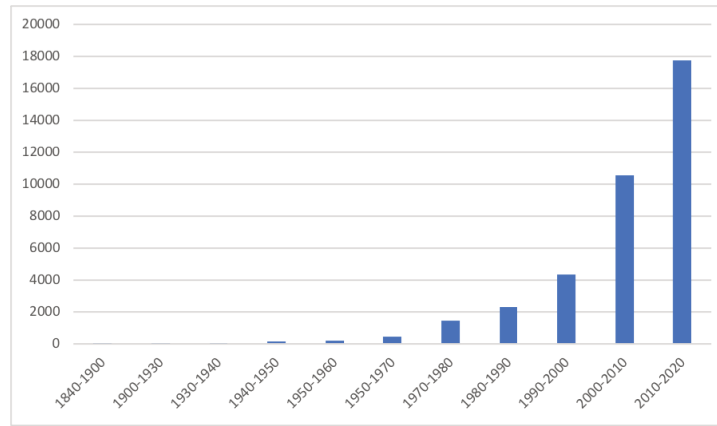
### **1.1.2 The definitional gap in the Management literature on responsibility**

Definitional challenges relating to OSER seem all the more complex that the discipline which has emblematically looked at organizational responsibility does not seem to offer an easy definition as a solution.

#### **Management as the privileged literature to study responsibility**

Management seems to be at least the most loquacious if not the most privileged discipline to study organizational responsibility.

When typing “*responsibility*” in Scopus, the Journal getting the most results is the Journal of Business Ethics, with 2,071 results, and, throughout the general increase in publications in the 19th and 20th centuries, the topic “*responsibility*” has at least remained a prominent topic if it was not itself the object of an increased academic focus.



Source: Scopus

Figure 3: Number of papers on the concept of “responsibility” per year

Even though the Management literature is primarily focused on corporations, when searching for articles specifically on “*environmental and social responsibility of the public sector,*” “*environmental and social responsibility of States,*” or “*environmental and social responsibility of NGOs,*” the primary lens of resulting academic articles is consistently CSR. Of course, philosophy, law and international relations also do tackle the question of organizational responsibility, as further developed in this literature review. However, responsibility remains mostly studied in the CSR context as indicated by the subjects of the few most cited management articles concerned with the notion of responsibility:

- Waddock & Graves (1997), Sen & Bhattacharya (2001), Orlitzky et al. (2003), Porter & Kramer, (2006) which study the links forming between competitive/financial dimensions and CSR.
- McWilliams & Siegel (2001), Campbell (2007) which are articles analyzing the factors influencing a firm’s level of CSR.
- Carroll, (1991) Carroll, (1999) which are articles defining the components of CSR.

However, in all articles on organizational responsibility, even in a dedicated field like CSR, there is no in depth conceptual definitions of the term responsibility (Idemudia, 2008).

## Definitional gap in the Management literature

Carroll (1999), in her articles about the evolution of CSR as a definitional construct, mentions the following definitions, among the authors who actually attempted to define CSR:

- Bowen (1953)'s definition: the social responsibilities of businessmen: "*refers to the **obligations** of businessmen to pursue those policies, to make those decisions, or to follow those lines of **action which are desirable in terms of the objectives and values of our society***" (p. 6).
- William C. Frederick (1960): "*[Social responsibilities] mean that businessmen **should** oversee the operation of an economic system that fulfills the **expectations of the public**. And this means in turn that the economy's means of production should be employed in such a way that production and distribution should enhance total socio-economic welfare. Social responsibility in the final analysis implies a public posture toward society's economic and human resources and a willingness to see that those resources are used for broad social ends and not simply for the narrowly circumscribed interests of private persons and firms*" (p. 60).
- Davis (1960): social responsibility refers to "*businessmen's **decisions and actions** taken for reasons at least partially **beyond the firm's direct economic or technical interest***" (p. 70).
- Keith Davis and Robert Blomstrom (1966): "*Social responsibility, therefore, refers to a person's **obligation** to consider the **effects of his decisions and actions on the whole social system**. Businessmen apply social responsibility when they consider the needs and interests of others who may be affected by business actions. In so doing, they look beyond their firm's narrow economic and technical interests*" (p. 12).
- Manne & Wallich (1972): "*To qualify as socially responsible corporate action, a business expenditure or activity **must be one for which the marginal returns to the corporation are less than the returns available from some alternative expenditure, must be purely voluntary, and must be an actual corporate expenditure** rather than a conduit for individual largesse*" (pp. 4-6).

- Carroll (1979): “*The social responsibility of business encompasses **the economic, legal, ethical, and discretionary expectations** that society has of organizations at a given point in time*” (p. 500).

Although these definitions are valuable to map key terms associated with organizational responsibility, it is notable that these definitions remain quite vague in terms of what responsibility actually means (substituting any definition of responsibility with the term “*obligation,*” “*must,*” “*should,*” “*decisions and actions*”), focusing on dimensions that are the object of the organization’s responsibility (environmental aspects, social aspects, economic and financial aspects, stakeholder’s expectations) more than the nature of responsibility itself. These definitions are even at times contradictory (as to whether organization’s responsibility encompasses or not the legal domain), and are still very focused on the private sector, and not organizational responsibility in general. Furthermore, as shown by Carroll (2008), many historical articles on organizational responsibility do not even bother using a definition of responsibility at all. This is also the case of more recent articles which have become a cornerstone of the CSR field. For example, Scherer & Palazzo (2011) clarify that they use the term CSR as “*an umbrella term for the debate on the role of business in society,*” (p. 922) further precisizing that various concepts are part of the CSR field: “*business ethics, business & society, corporate accountability, corporate citizenship, corporate sustainability, critical management studies, stakeholder theory etc.*” (p. 923). However, this does not really constitute an analytical definition of the term responsibility. When recent articles do define responsibility, definitions also remain vague. For example, Reinecke & Ansari (2016) define responsibility based on Newell, (2005)’s as “*the state of duty, accountability, and opportunity for action for an issue,*” (p. 300) but this actually paraphrases Newell (2005)’s article which is not directly about the definition of responsibility, and this definition does not really allow one to understand what is meant by duty, accountability and opportunity for action.

When attempting to seek theoretical frameworks that would support a study of OSER definition in the CSR literature, one has to face similar challenges.

First, a series of CSR articles do not focus on CSR definition at all. They build on the fact of CSR, taking CSR for granted, to explore other dimensions of CSR (e.g., determining factors for CSR performance, the nature of the relationship between CSR performance

and financial performance, nature of the relationship between corporate governance (CG) and CSR, see for example Velte, 2022, for a meta-analysis). While they are critical to understand key dimensions of CSR, these cannot be used in the context of a study on OSER definition.

Second, the theoretical frameworks used to actually tackle the question of CSR drivers, which are close to OSER definition, do not actually constitute frameworks that would allow for a better understanding of key OSER definitional challenges. As shown in Frynas & Stephens, 2015 and Frynas & Yamahaki, 2016 meta-analyzing respectively 146 and 462 peer reviewed articles over the period 2000-2014, the CSR literature provides processual answers to the question “*how is OSER defined,*” using various theories to explain the emergence and shaping of CSR. These include stakeholder theories, resource-dependence theory (Pfeffer & Salancik 1978), agency theory (Jensen & Meckling 1976) institutional theory (DiMaggio & Powell 1983), Rawls, Habermas, Gramsci. Such explanations for CSR emergence and evolution are described in the below table.

Table 1: Theorizing the emergence and evolution of CSR

| Theory  | Processual rationale to explain how CSR emerges and evolves  | Example  |
|---|--|--|
| Habermasian                                   | Appeals to the Habermasian concept of discourse ethics and or deliberative democracy to offer an account of the way in which political CSR can be legitimized                    | Gilbert & Rasche 2007; Mena & Palazzo 2012; Scherer & Palazzo 2011 |
| Institutional theory (DiMaggio & Powell 1983) | Explains the changing function of CSR as a result of the companies’ conformity to different institutional pressures CSR driven by conformity to different institutional contexts | Detomasi 2007; Kang and Moon 2012; Ungericht and Hirt 2010         |
| Legitimacy theory (Boyd, 2000)                | Explains the emergence of political CSR as a strategy to achieve legitimation via congruence with the norms and values of the society in which they operate                      | Blasio 2007; Cashore et al. 2003                                   |

|   |   |  |
|---|---|--|
| Rawlsian                                      | Applies Rawls' theory of Justice in order to establish the just (and legitimate) rights and responsibilities of the corporation as a social and political actor   | Bishop 2008;<br>Cohen 2010                                 |
| Resource based view (Pfeffer & Salancik 1978) | Considers the way in which political CSR is being used as a specialized skill or capability in order to gain a competitive advantage  | Chan 2005;<br>McWilliams et al. 2002                       |
| Social contract theory                        | Employs the Social Contract mechanism to offer an account of what the political role of companies should be and/or how it could be realized   | Cragg 2000;<br>Dunfee 2006;<br>Sacconi 2006                |
| Stakeholder theories (normative)              | Asserts that the legitimacy gap created by political CSR should be addressed by appealing to the interests of stakeholders and increased involvement of affected parties in the decision-making processes of the corporations | Crane et al. 2004; Logsdon & Wood 2002                     |
| Stakeholder theories (descriptive)            | Explains the changing function of CSR in terms of its response to stakeholder demands   | Gilbert & Rasche 2008;<br>Reed 2002                        |
| Agency theory (Jensen & Meckling 1976)        | CSR driven by (mis)alignment between agents and principals  | Wright & Ferris 1997, Deckop et al. 2006, Chin et al. 2013 |
| Gramsci                                       | CSR is the reflection of a hegemonic system's adaptation and evolution as it absorbs challenges and preserves essential features  | Levy et al., 2016  |

*Source: Frynas & Stephens, 2015 and Frynas & Yamahaki, 2016*

However, while CSR and PCSR studies use theories that could explain the emergence and evolution of CSR definition, they do not necessarily focus precisely on the definition of OSER. While these studies bring very fruitful lights on reasons why CSR emerges as a key topic as well as how CSR emerges through the description of various processes, most do not provide substantive precisions on the precise shift of OSER content. They are not

theories of responsibility. All of the above theories can very well be used across various fields and on a wide variety of topics, hence their strength but also their weaknesses, when it comes to the need for theorizing on responsibility itself.

The lack of responsibility theories in CSR is in part due to the fact that most CSR studies do not conduct a deep dive into the conceptual challenges associated with organizational responsibility– which undermines the studies’ capacity to precisely define (or point to definitional challenges related to) organizational responsibility. As such, in this study, I have chosen to take a closer look at these conceptual challenges in order to take stock of what we can learn from them, before building on PCSR studies that do tackle the question of responsibility (re)definition more directly (in particular, Palazzo & Scherer, 2006, and Schrempf, 2012).

In the following sub-section, while I use several authors drawing from philosophy, law, and social sciences, I build on Ricoeur (1994)’s article on the concept of responsibility as a key thread to resurrect deep conceptual and philosophical challenges as an undercurrent of the notion of responsibility and further clarify this study’s understanding of the term. Indeed, Ricoeur (1994)’s article goes far beyond existing definitions of responsibility in CSR and allows for a deep conceptual investigation of the term and associated challenges.

### **Resurrecting OSER conceptual and philosophical definitional challenges: in search of lost responsible entities**

The term responsibility is fairly recent as it appeared in the common language in the XVIII century and originates from the latin verb *respondeo*, to answer to a summons. As noted by Ricoeur (1994) quoting Henriot (1990), the apparition and usage of the term responsibility has been, historically speaking, intrinsically tied to the jurists’ interest in the notion of compensation for damages. Until recent times, responsibility was the preserve of the judicial and legal domain and was, conceptually speaking, closely related to the notion of repair of past harm, responding to past actions.

This historical usage does not however capture the full breadth of the concept which seems to go well beyond the scopes of legal reparation or judiciary punishment, traversing the various philosophical spheres of action, attributability and freedom. Ricoeur (1994) particularly points to the diversity of uses of the term “*responsibility*,” with for example



very distinct complements for the adjective responsible: responsible for your acts, responsible of others. The ethical significance of these two locutions is obvious and one can easily see in these expressions the traces of a moral concept of responsibility that indeed goes beyond the legal domain.

Works in philosophy have particularly explored responsibility beyond law with theories such as those of Levinas, with the responsibility for others (Levinas, 1961), or Hans Jonas, with the imperative of responsibility (Jonas, 1984). However, it does not seem to be associated with any identifiable philosophical school of thought. “*We are surprised*”, Ricoeur notes, “*that a term which is so firmly anchored in law would be so recent and not fall within any philosophical tradition*” (Ricoeur, 1994, p. 42).

Responsibility is thus characterized by an uncertain origin, as it is both used in law, philosophy and in the common language, and for a wide variety of uses. As such, before diving into the management literature, there is a need to take a disciplinary crossroad to have a preliminary look at the legal and philosophical roots of the notion of responsibility, in order to unravel this conceptual mystery.

### **Who can be responsible?**

Given that responsibility etymologically raises the question of a response, it immediately raises the question of responsibility attribution.

To entertain the idea of a responding entity, one must first assume that this entity possesses a certain degree of freedom and self-determination. In essence, it is about acknowledging the entity’s capacity for autonomy, whereby it can be seen as the cause of an impact, and not just as a mere cog in an impersonal and automated machinery. As put by Ricoeur (1994), “*fatality is nobody, responsibility is someone*” (1994, p. 41). Indeed, actions, in the strict sense of the term, need to be assigned to a free entity. Otherwise, actions are nothing more than facts. As Kant cited by Ricoeur (1994) notes, “*a fact is an action (...) as long as the related subject is considered from the point of view of her free will*” (Kant, Doctrine of Right, p. 96-98, quoted by Ricoeur, pp. 32-33). Ricoeur (1994) thus notes that understanding the radical meaning of the term attribution, at the heart of responsibility, requires an analysis of the third antinomy introduced by Kant in the Transcendental Dialectic in the Critique of Pure Reason. Thesis: “*Causality in*

*accordance with laws of nature is not the only causality from which the appearances of the world can one and all be derived. To explain these appearances it is necessary to assume that there is also another causality, that of Spontaneity.*” Anti-thesis: “*There is no Spontaneity; everything in the world takes place solely in accordance with laws of nature*” (Kant, Critique of Pure Reason, A 445, B 473, quoted by Ricoeur, p. 33). If there is something that actually begins a chain of causes, then attribution is possible. Otherwise, attribution is a mere fantasy.

This antinomy posits the “*original capacity of initiative*” (p. 33), intrinsically tied to freedom, as a *conditio sine qua non* for the conceptual possibility of the notion of attribution and responsibility. Indeed, as explained by Kant quoted by Ricoeur (1994), “*the transcendental idea of freedom (...) establishes the concept of absolute spontaneity of action, as the basis for the attributability of this action; but it is no less the stumbling block of philosophy, which has insurmountable difficulties to admit this unconditional causality*” (Kant, Critique of Pure Reason, A 448, B 476, quoted by Ricoeur, pp. 33-34). We are thus reduced to have a representation of the world where the two causalities, causality of nature and causality of freedom that are somewhat joint and revealed. As noted by Ricoeur (1994), this needs to be viewed as the “*conceptual constraint due to the structure of action as an initiative, a causal beginning of a series of consequences in the world*” (p. 39). Without causal beginnings, that is to say true actions that are somewhat free of external constraints, there is no responsibility.

As freedom conditions the possibility of attribution and thus responsibility, the question arises then as to the nature and identity of the agent that can be found responsible: who can respond?

### **Individuals as the privileged responsible entity**

Freedom, autonomy, spontaneity have traditionally been associated with individuals. According to St Thomas D’Aquin, drawing for Aristotle’s concept of substance as well as Boethius’ definition of a person, the person is nothing but a rational individual: “*A person is an individual substance of a rational nature.*” (St.Thomas Aquinas, 1266). In fact, many philosophical theories have gone as far as defining individuals as those very entities who are able to transcend the laws of natural cause, whether that be through distinct features characterizing them such as conscience, reason and/or morality, such as

with Descartes and Kant, or more directly through an individual agency seen as a more primitive fact, such as with Merleau-Ponty (1942, 1945). Philosophy has produced this tour de force: extricating individuals from the yoke of natural determinism and elevating them to *casa sui* entities – causing actions, i.e., acting, without the interventions of external causes - and therefore opening the door to the possibility of attributing an action to an individual, making an individual responsible of an action.

### **Organizational responsibility: a conceptual UFO**

Given that actions, as we have just seen, are traditionally attributed to individuals, this *individualistic* point of view has shaped the many research endeavors concerned with the concept of responsibility. In the same movement, organizational responsibility has become a conceptual UFO.

For example, in the literature in international relations, as analyzed by Ainley (2008), there is an *“increasing focus on the individual, rather than the state, as the key agent in international politics”* in post 1945 international relations and international political theory (p. 2). Ainley attributes to the focus on individuals to both cosmopolitanism and liberalism, directly linked to the philosophical focus on individuals. While cosmopolitanism focuses on the individual as an agent that has no roots other than a belonging to a single moral community, it can be seen as volitional, rational and autonomous, not resulting from any external causes. Similarly, liberalism, drawing from Kantian theories, views the individual as being able to transcend the laws of cause through reason and morality.

However, as pointed out by Ainley (2008), this individual focus remains relatively restricted and limits our understanding of what role organizations may play in the structuring of today’s world. There is a need to go beyond organizational responsibility as a mere oddity and assess whether one can posit the conceptual grounds to actually be able to think about organizational responsibility beyond individuals. Through our investigation of the concept of responsibility, mainly using the thread of Ricoeur (1994), it is worth exploring the significant contributions of law and philosophical work by Dewey (1926) on the concept of person, which set important conceptual foundations to think about organizational responsibility.

## **The burgeoning possibility to think organizational responsibility: the organizational person**

Law history also reflects the philosophical focus many disciplines have on individual responsibility. The legal concept of *person*, that is that of an entity which is able to bear *responsibility* and which is, as such, accountable from the legal point of view, was first dedicated to individuals. However, law further contributed to opening the door to reflecting on organizational responsibility, as it has elaborated the concept of the moral person, which can encompass organizations (juridical person).

Dewey (1926) gives very useful insights on the historic background of corporate legal responsibility. In his article, he particularly mentions that Pope Innocent IV (1243-1254), deemed that ecclesiastic bodies could not be excommunicated or guilty of a delict on the basis that corporations were fictitious persons (*persona fictae*). Law, from that perspective, has elevated fictitious persons to the status of legal persons: “*person signifies what law makes it signify*” (Dewey, 1926, p. 657). Law has thus largely contributed to advancing the reflection on organizational responsibility and allowed for the possibility of attributing responsibility to organizations.

As explained by Dewey (1926), the notion of the organizational person, which conditions attributability and the concept of organizational responsibility, is made possible by distinct philosophy strands, which are key when it comes to understanding the nature and function of an organization:

- First, one perspective in philosophical theories emphasizes the existence of fundamental commonalities between individuals and groups, thus shaping a reimagined concept of the philosophical person that extends to include organizations. These theories view the organization as a real person. For example, the summary of Gierke’s position by Maitland and quoted by Dewey states that a group: “*is a living organism and a real person, with body and members and a will of its own. Itself can will, itself can act ... it is a group-person, and its will is a group-will*” (Gierke quoted in Dewey, 1926, p. 658).
- Second, philosophical theories holding that common essential points may not matter but common consequences may be useful to understand the concept of organiza-

tional person, thus leading to a pragmatic concept of person. From the pragmatic perspective, “*what effects, which might conceivably have practical bearings, we conceive the object of our conception to have. Then, our conception of these effects is the whole of our conception of the object*” (Dewey quoting Charles S. Peirce, 1926, p. 661) – as such the question is less one of nature, more one of consequences. As long as the organization has the same effects as an individual person, it can pragmatically be considered as a person.

Recent work in international politics and international relations has contributed to this debate, and underlined the importance of enabling the possibility of conceptualizing the responsibility of institutions (Erskine, 2003, Ainley, 2011, Brownlie & Ragazzi, 2013), even if they may be seen as “*myriads of singular micro-decisions, raveled with a number of indefinite interventions,*” and would only “*make sense at the level of established systems, such as the ecological, bureaucratic, financial, etc. system*” (Ricoeur, 1994, p. 44)

### **Beyond philosophical and legal debates on the organizational person: political considerations**

Dewey mentions that the philosophical debate on the person has served conflicting purposes when it comes to the actual power of organizations.

On the one hand, as they were not always viewed as *vera persona*, i.e., true or real persons, organizations have been subject to fewer constraints. For example, as mentioned above, organizations have been able to avoid excommunications or lessen the power of individuals, on the basis that organizations were not *vera persona* (see above explanation on Pope Innocent IV).

On the other hand, viewed as possible persons, organizations have enjoyed exaltations of their rights as a person, if not rights superior to those of the individual person, at the same time the same organizations would be obligated by a certain number of duties that would make them amenable to liability.

As noted by Dewey (1926), importantly, the instrumentalization of these theories in one direction rather than the other was not so much imposed by legal considerations as it was dictated by political considerations. This proved particularly true for States that have enjoyed quite a particular status within the debate on moral persons. As Dewey (1926)

puts it: “*The personality of the state has been opposed to both the personality of “natural” singular persons and to the personality of groups (...) it has been employed both to make the state the supreme and culminating personality in a hierarchy, to make it but primus inter paros, and to reduce it to merely one among many, sometimes more important than others and sometimes less so*” (p. 669).

I draw two important conclusions from these considerations: 1) Philosophical debates albeit important should not lose sight of their concrete implications, that is their impact on the social world. 2) One cannot forgo political considerations when it comes to studying responsibility, as they are a driver for the actual social implications of philosophical considerations on responsibility.

### **The ambivalent modern expansion of the responsibility: liability without fault and risk prevention**

Now that I have explored some philosophical, legal and political dimensions associated with the concept of responsibility, it is important to further understand the recent evolution of the notion. Here again, Ricoeur (1994) sheds a very interesting light on the recent expansion of responsibility, by explaining that this expansion is reflected through the notion of liability without fault and risk prevention.

#### **Liability without fault**

Law has also further introduced a crucial concept that opens and expands the horizons of possibility for the concept of responsibility: the notion of liability without fault, which can be directly tied to the notion of risk prevention (in French, liability without fault is called “*responsabilité sans faute*” thus making the link between liability without fault and responsibility even more evident). In France, the concept of liability without fault is, originally, a State responsibility: drawing from the 1895 Cames decree, a 1898 law on labor incidents obligates the State to be insured against labor risks, even if the State has not committed a fault leading to the incident. While there is now a variety of applications for responsibility without fault with different implications, according to L. Engel quoted by Ricoeur (1994), this 1898 law was the first shift “*from an individual management of responsibility to a socialized management of risk*” (p. 40).

## Risk prevention

Recent evolutions of the notion of responsibility can be attributed to the “*incredible expansion of the sphere of risks,*” according to Ricoeur (1994, p. 41). A particularly bright light is cast upon this expansion of risks and responsibilities by the paradigm of risk society created by Ulrich Beck (1992). Indeed, according to Ulrich Beck, modernity comes with a new paradigm, where progress is no longer perceived as the natural and automatic process of optimization which advantages justify all the potential associated costs. The 20th century, as noted by François Vallaey (2011) quoting Beck, has led to profoundly question the notion of progress: totalitarian regimes, atomic bombs, as well as the global ecological crisis have put at the forefront extinction risks, and their intrinsic relationship which has been called progress. From that perspective, progress is now dressed in an ominous veil, and instead of a blanket response according to which “*one can’t make an omelet without breaking eggs,*” typical of a Progress-at-all-costs thinking. One must now weigh opportunities and risks on a case-by-case basis to determine which outweighs the other. The new paradigm of risk society raises the following questions:

*“How can the risks and hazards systematically produced as part of modernization be prevented, minimized, dramatized, or channeled? Where they do finally see the light of day in the shape of ‘latent side effects’, how can they be limited and distributed away so that they neither hamper the modernization process nor exceed the limits of that which is ‘tolerable’ - ecologically, medically, psychologically and socially”* (Beck, 1992, p. 19).

This necessity to prevent risks adds a new dimension to responsibility, which is more forward looking, and less backward-looking than the traditional legal concept of responsibility.

## Forward-looking responsibility

Forward-looking responsibility can be defined in opposition to backward-looking responsibility, which is most commonly referred to when discussing responsibility: *forward-looking responsibility* is the responsibility for future impact (whether responsibility to provide future remedies to past impact or to prevent future impacts), while *backward-looking responsibility*, is the responsibility of past impact. As explained in the Stanford Encyclopedia’s article on collective responsibility: “*Forward-looking responsibility, like its*

*backward-looking counterpart, refers to a collective agent's responsibility for a particular state of affairs in the world. But, unlike its backward-looking counterpart, it does not make responsibility out to be a matter of having caused an existing (morally problematic) state of affairs. Instead, it makes responsibility out to be a matter of being morally charged with—responsible for—bringing about a state of affairs which we as a community consider to be better. (...) it requires only that the agent be able to do something in the world and take responsibility for making things happen.”* As such, forward-looking responsibility can be seen as a paradoxical paradigmatic shift wherein the question of attribution assumes a completely different nature: it does not revolve around the notion of *fault* anymore, but rather around that of *capacity and requirement to repair or compensate* on the basis of a *socialization of risks and solidarity*. According to forward-looking responsibility, an entity can be held responsible to repair the impact it has caused (thus tied to backward-looking responsibility), or responsible to prevent future risks. While one usually assumes that those responsible for the adverse impact (in the past) are responsible to compensate for the adverse impact (in the future), from this perspective, repair or compensation can actually be required from those agents that are with or without fault: they are not necessarily responsible for the damage (in the past), but are responsible to compensate the damage (in the future). As explained in the Stanford Encyclopedia's article on collective responsibility, “*when it comes to forward-looking responsibility, we need to think about who is in the best position to do something about the harm, and when we do, as Robert Goodin (1998) points out, we may—and probably will—discover in some cases that the agent who caused the harm is not the agent who is now able to remedy it in practice. None of this suggests that we should abandon judgments of causal responsibility altogether when ascribing forward-looking responsibility. Indeed, as we suggest shortly, such judgments may become relevant to matters of fairness in ascribing remedial responsibility. But it does suggest that we cannot move directly from causal to remedial responsibility, i.e., ground the latter exclusively in the former*” (Smiley, 2017). Forward-looking responsibility can be both thought of as a responsibility to prevent, in the case of risk prevention and mitigation, and as remedial responsibility, in the case of contribution to future remedy to remediate past adverse impact (whether this past impact was caused or not by the party bearing this forward-looking responsibility). In this thesis, I will prefer the word “*repair*” to point to forward-looking responsibility to repair the adverse impact one has caused,



and the word “*compensate*” to point to forward-looking responsibility to compensate for the adverse impact one has not caused.

### **Responsibility expansion**

Forward-looking responsibility drastically broadens the realm of responsibility. In the case of risk prevention, by definition, there is no finite set of *actual* impacts. Indeed, future impacts include *highly likely* impacts that can feel “*actual*” as they are almost certain, but the span of possible future impacts goes well beyond the impacts that one can anticipate. Therefore, responsibility may expand in space and time in unprecedented manners, as our potential impacts could virtually be anywhere, anytime, and knowing where the mass of consequences of our actions stops is a difficult question. Does my action stop at what I intended to do? Can organizations be responsible for impacts that may still unravel beyond 100 generations after the organization ceases to exist? While attribution of backward-looking responsibility in the context of past impacts is difficult, the problem is thus further complicated by the notion of future impacts in the context of risk prevention.

### **The challenges associated with responsibility expansion**

This responsibility expansion is even more difficult when one considers the need to take into account both direct and indirect impacts as well as intentional and unintentional impacts. Indeed, the capacity of origination, which has no other name than actions, as opposed to events, may apply to both intentional and unintended impacts, as well as to both direct and indirect impacts, although this raises a dilemma, even more acute when considering potential impacts of organizations as opposed to actual impacts of individuals. Ricoeur (1994) summarizes this dilemma by quoting Pascal letters. On the one hand, the justification through intention may lead to the possibility to “*wash one’s hands*” of its consequences. On the other hand, taking into account all of the consequences an action may expand the responsibility domain in an indiscriminate manner, thus leading to a fatalistic responsibility where one is responsible for everything on paper, that is to say nothing in reality, as one cannot actually take over this ever-expanding responsibility. Between both stances, there is a middle ground, whereby responsibility comprises some but not all unintended and indirect past and future impacts.

Nonetheless, Ricoeur (1994, p. 41) warns against this expansion as he considers this will inflate pointing the fingers at responsible parties (*“résurgence sociale de l’accusation”*<sup>1</sup>) in an indiscriminate manner, as the concept of liability without fault disconnects the negative impact from the concepts of decision and demotes actions to the rank of mere facts. Ricoeur (1994) also notes that liability without faults and responsibility to prevent leads to changing the nature of the contractual relationship: he underlines that while contractual relationships are built on trust, the contract now becomes the battlefield to avoid being held responsible for compensation. In general, beyond its warnings concerning liability without fault, Ricoeur (1994) also points to the difficulties of forward-looking responsibility, whose limits in space and time are unknown, as mentioned above.

I would argue that Ricoeur (1994)’s position needs to be both complemented and nuanced. One should not lose sight of the advantages if not necessity of the concept of liability without fault and risk prevention. Indeed, the roots for this concept, the society of risk, is not necessarily the result of a flee from responsibility, but also the result of the increase in complexity of contemporaneous interactions in a globalized world. As described by Ricoeur (1994) himself, the need to take care about sustainable development in its E&S dimensions raises questions about the scope of responsibility in space and time (Ricoeur, 1994). From that perspective, risk is not an escape from responsibility, it is the very reason why responsibility should be studied as a crucial topic. Furthermore, while the middle ground is hard to find in the context of responsibility expansion, options are already underway: one interesting legal proposal, to take into account certain indirect impacts while not opening an infinite pandora box of accountability horizons, is the French duty of vigilance act (*“devoir de vigilance”*<sup>2</sup>) which requires all large French companies to undertake due diligence (identifying, avoiding and mitigating risks) with regard to the companies they control and all their contractors and suppliers. This has been celebrated as a legal option to bridge the interstitial zones of irresponsibility in the context of global value chains, although limited by the difficulty of actually assessing the causality between a due diligence breach and a harm (d’Ambrosio, 2020).

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<sup>1</sup> Translation: *“Social resurgence of the accusation.”*

<sup>2</sup> Translation: duty of vigilance

However, the question of the scope of our expanded responsibility in a society of risk is vertiginous indeed. This is why this study has chosen to take a deep dive into the roots of the challenges associated with organizational responsibility on E&S issues.

### **Summary of OSER definitional challenges and phronesis as a possible solution**

Based on the above, the main challenges met in trying to define the concept of responsibility are the following:

- First, as we have seen, backward-looking responsibility for an identified damage applied to the individual is tied to the third Kantian antinomy which points to the conceptual challenge of thinking about a spontaneous action.
- The second definitional challenge we met lies in the generalization of the responsibility concept to organizations whose status as a person is the subject of many debates, not to mention responsibility of entities that would constitute an association of various organizations like the World Bank.
- Third, the scope for the question of forward-looking responsibility to prevent is even less defined than the scope for the backward-looking responsibility/forward-looking responsibility to repair, as the impact at hand is not yet identified and one does not know where to stop the timeline, especially as the causal empirical chains triggered by an action is virtually indefinite, as observed by Ricoeur (1994) quoting Kant.
- Fourth, this scope expansion and somewhat indefiniteness also apply to space limits, as our actions and their impacts are now considered in a globalized world.
- Five, this complexity linked to (the absence of) limits of impacts in time and space can be exacerbated depending on the nature of the impacts under consideration: intentional and direct impacts or, more problematic still, unintended and indirect impacts.
- Six, the question of attribution of compensation responsibility can be disconnected from the attribution of fault, thus leading to an absence of reciprocity between affected and responsible parties, further complicating the notion of responsibility.

In order to tackle the challenges associated with responsibility, Ricoeur (1994) insists on the Greek concept of *phronesis*, which designates a concrete situational judgment

guided by deliberation and measure to select the right means for a good end. *Phronesis* is sometimes translated prudence, or prudence can mean a decision-making virtue that includes the capacity to resort to *phronesis*, a situated judgment, in deliberations to take decisions.

*Phronesis* points both to calculation and balance in concrete and particular situations. Indeed, when distinguishing *phronesis* and wisdom, Aristotle points to the fact that *phronesis* requires experience: “...although the young may be experts in geometry and mathematics and similar branches of knowledge [*sophoi*], we do not consider that a young man can have Prudence [*phronimos*]. The reason is that Prudence [*phronesis*] includes a knowledge of particular facts, and this is derived from experience, which a young man does not possess; for experience is the fruit of years.” (Aristote, Nic. Eth., 1142a).

In general, in the face of the conceptual bottlenecks to attribute responsibility in the abstract, concrete arbitration seems to be a seductive possible solution. For example, when wondering about the scope of responsibility on unintended and indirect future impacts, the ability to apply concrete situational judgment is key: “human action is only possible under the condition of a concrete arbitration between the short vision of a limited responsibility with predictable and manageable effects and the long-term vision of an illimited responsibility” (Ricoeur, 1994, p. 47).

Ricoeur (1994) does not posit Aristotle’s philosophy as a solution to responsibility bottlenecks. However, he underlines that responsibility dilemmas lead us to re-emphasize prudence as the cornerstone through which one can recognize, “among the manifold consequences of our action, those for which we can be held responsible, in the name of morality and measure” (1994, p. 48). This emphasis comes in Ricoeur (1994)’s argument as a final suggestion for a solution to find a good balance between causal attribution, solidarity and shared risks. While this suggestion is not the object of a full development allowing us to grasp all its possible implications, it does have the merit to recontextualize responsibility as the object of constant discernment, but also opened to a variety of situated judgments.

## 1.2 The Management literature, CSR and PCSR: defining a framework to study OSER definition

Now that I have conducted a deep dive into the challenges it posed at the conceptual level, and pronesis as a possible useful concept to tackle these challenges, this section will explain why and how this study is positioned in Management as an academic discipline and focusing most particularly on the CSR and PCSR literature.

This section will therefore consider why Management represents a research opportunity in the field of OSER studies (1.2.1), and more particularly research on CSR. This section will focus on CSR from a historical lens (1.2.2.), as well as relevant CSR theories to tackle the question of OSER definition, particularly PCSR work drawing from Young (2006, 2011) (1.2.3). This will enable me to define an OSER definitional framework (1.2.4.). We will then focus on how the application of a research question on OSER definition to an organization like the World Bank is particularly relevant in the CSR and PCSR literature (1.2.5.).

### 1.2.1 A call for the renewed intervention of Management research

Ricoeur (1994)'s work in itself contributes to the CSR and PCSR literature by expanding our understanding of the challenges associated with responsibility. It first teaches us the deep definitional challenges related to responsibility which have not been the focus of CSR studies, and also signals how the Management literature still remains the privileged discipline to study responsibility, by pointing to the deep interconnection between responsibility and the Management literature, the need for cross-disciplinary discernment and concrete decision-making.

As noted by Ricoeur (1994), there is an inevitable link between responsibility and management: responsibility naturally triggers concepts around decision, attribution, evaluation and control, which are recurring management themes. The links between responsibility and management are also reflected by the vocabulary and metaphors associated with accounting (with related lexicon: accountability in English, Zurechnung in German, rendre

des comptes in French). Drawing from these accounting roots, Ricoeur (1994, p. 31) muses, noting this suggests “*a strange accounting of merits and faults, as in an accounting book with two entries: revenue and expenditures, credit and debit*” pointing to a sort of “*moral balance sheet,*” a “*record,*” including certain moral debts and merits.

Beyond the accounting roots of responsibility pointing to the Management literature as a privileged discipline to tackle the question of organizational responsibility, I argue that the notion of phronesis, offered by Ricoeur (1994) as a potential and partial solution to the definitional hurdles met in defining responsibility, also essentially points the finger to the Management literature. Phronesis is defined by Aristotle by the essence of moral knowledge. However, it is very rooted in concrete and practical situations. Indeed, although moral knowledge builds upon the norms that pervade social life, these theoretical norms are not sufficient to comprehend the notion of phronesis. There is a need to actually question and apply (or apply and question) these norms in a series of practical situations. As stated by Aristotle, “*Phronesis is not concerned with universals only; it must also take cognizance of particulars, because it is concerned with conduct, and conduct has its sphere in particular circumstances*” (Aristotle, Nic. Eth., 1141b).

As such, *phronesis* is grounded in a mass of popular, historical, social and political considerations that go beyond philosophical abstractions and legal texts. It is by itself a manifesto signaling the need for (i) a concrete reflection (ii) at the crossroads of the various perspectives. From that point of view, the Management literature is also a privileged discipline, as it is both (i) very much focused on decision-making tools in concrete situations, hence its contested but important focus as an academic discipline on “*managerial contribution*” in addition to theoretical contributions and (ii) at the cross-roads of various social sciences, especially law, economics and sociology of organizations, but also frequently borrowing concepts from other disciplines like philosophy.

Finally, when it comes to specifically studying practical situations of responsibility in the context of organizations, Management is also the ideal academic discipline, as its focus is onto organizations, thus *a priori* overcoming the preliminary conceptual deadlock of restricting the notion of responsibility to individuals.

As such, the Management literature, on many fronts, remains a privileged discipline to tackle the question of organizational responsibility.

However, Management research cannot look away from the legal, philosophical and political considerations associated with responsibility. It cannot frame responsibility or the question of compensation as a mere “*technical risk management in human interactions*” (Ricoeur, 1994, p. 42). This is why taking stock of Ricoeur (1994)’s lessons on the deep challenges characterizing the concept of responsibility is important for the Management literature to be even more equipped to tackle the question of OSER definition. Now that we have focused on the conceptual challenges tied to CSR and demonstrated philosophical reflections can contribute to CSR, we can turn back to CSR to demonstrate how the challenges described by Ricoeur (1994) can be seen as reflected in the CSR literature itself.

### **1.2.2 A historical perspective on CSR, reflecting the ambivalent expansion of organizational responsibility**

The academic understanding of CSR has evolved and expanded throughout time reflecting the expansion and increasing ambivalence of responsibility described by Ricoeur (1994).

Several articles have done a historical overview of CSR (Carroll, 1999, Carroll, 2008, Capron & Petit, 2011, Acquier & Aggeri, 2015, Latapí Agudelo et al., 2019). One of the most recent can be found in Latapí Agudelo et al. (2019), used in this study to provide a brief historical overview of CSR.

#### ***Historical overview of CSR***

As noted by Latapí Agudelo et al. (2019), burgeoning aspects of CSR can be traced back to the Roman Law (with entities such as asylums, homes for the poor, hospitals and orphanages) and Middle Ages (in academic, municipal and religious institutions fostering social initiatives), the late 1800 is a turning point, with the creation of welfare schemes and the need to respond to concerns related to urbanization and industrialization.

In the 1920s and 1930s, “*business managers begun assuming the responsibility of balancing the maximization of profits with creating and maintaining an equilibrium with the demands of their clients, their labor force, and the community*” (Latapí Agudelo et al., 2019, p. 3). This movement, in turn, “*translated into social and economic responsibilities being adopted by corporations*” (Latapí Agudelo et al., 2019, p. 3).

With the 1950s and 1960s defined by Latapí Agudelo et al. (2019) as the early days of the modern era of social responsibility came the first attempts to define what corporate responsibilities were, regarding social concerns but also issues around pollution and resource depletion issues (Du Pisani 2006), reflecting and shaping social movements of the time, especially in the USA. If some scholars at the time emphasized the fact that corporations had specific social and/or environmental responsibilities (Bowen, 1953, Frederick, 1960, McGuire, 1963 and Walton, 1967), others were arguing that corporations' responsibility exclusively lied in the pursuit of economic benefits (Friedman, 1962).

During the 1970s, social movements on E&S topics multiplied, institutions and experts took on strong stances on E&S responsibilities (see Baumol, W. J., 1970 and Committee for Economic Development, 1971, and Meadows et al., 1972), and legislations reinforced corporate responsibilities, particularly on environmental matters (with regulations from the Environmental Protection Agency, the Consumer Product Safety Commission, the Equal Employment Opportunity Commission and the Occupational Safety and Health Administration).

This paved the way for the operationalization of CSR initiated in the 1980s, a decade which was also, quite paradoxically, characterized by a new political line of thought described by Latapí Agudelo et al., as “*a strong focus on reducing the pressure on corporations*” (p. 6). On the one hand, in the 1980s were created several institutions which were central in the establishment of corporate responsibility, such as the European Commission's Environment Directorate-General in 1981, the World Commission on Environment and Development in 1983, or the IPCC in 1988. Some reports were also key in the CSR institutionalization process: Our Common Future presented by the Brundtland Commission which provided a definition of sustainable development (1987) and the adoption of the Montreal Protocol (1987). On the other hand, the 1980's also saw the advent of new policies (Reagan's or Thatcher's policies for example) which aimed at maintaining and bolstering a free market environment through deregulation and tax reductions. Multinational corporations have particularly developed sophisticated global production networks and often profited from regulatory gaps, although this relative impunity has been denounced by NGOs (Scherer et al., 2016).



The 1990s as analyzed by Latapí Agudelo et al., (2019) mark a deepening of previous trends, with the multiplication of institutional and regulation bodies, the rise of awareness among corporations, as well as a shift towards an ever more global CSR as induced by deregulation policies and growing competition for new markets at the international level. Although globalization reflects a new financial planet marked by State deregulation, new institutional bodies and events reflected attempts to promote States coordination for sustainable development and CSR at the supranational or global level: the European Environment Agency (1990), the UN Summit on the Environment and Development held in Rio de Janeiro which led to the Rio Declaration on Environment and Development, the adoption of Agenda 21 and the UN Framework Convention on Climate Change (1992), and the adoption of the Kyoto Protocol (1997).

The recognition of organizations' E&S responsibility and the expansion of these responsibilities' scope grew even stronger in the 2000s: the Millennium Development Goals were set and new international certifications (e.g., ISO 16000) which may apply to business as well as States were created, the institutionalization of CSR was reinforced through debates on private corporations specific responsibilities and through the establishment of the UN Global Compact, composed of 44 global companies, 6 business associations, and 2 labor and 12 CSOs. More importantly, the 2000s saw the emergence of what is now known as strategic CSR, a point of view that emphasizes the economic and financial added value of CSR for corporations, which constitutes a win-win approach according to which economic and financial as well as E&S objectives go hand in hand. This win-win approach was more widely adopted in the following decade (see Porter & Kramer, 2011) during which the Sustainable Development Goals (SDGs), a second generation of Millennium Development Goals, were proclaimed.

### ***Lessons learned from the historical overview of CSR: ambivalent expansion of OSER***

This brief historical and sectoral perspective is key to draw several important lessons learned on responsibility.

First, the concept of CSR gained major significance through the 20th century in various platforms, involving States, corporations as well as CSOs. This led to an expansion of CSR with the inclusion of various themes, especially environmental topics in the 1960s,

the most recent culmination of manifold topics of organizational responsibility the concept of “*shared value*,” reuniting ambitions to maximize economic, E&S objectives altogether, as well as the SDGs, with a collection of 17 interlinked global goals, 169 targets and 232 indicators – with recent showing interlinkage of goals is not always equivalent to synergy and can sometimes mean relative contradictions (International Council for Science, 2017, Hickel, 2019). Indeed, although Latapí Agudelo et al (2019) mention several definitions of CSR which gained prominence, they also note that “*The introduction of new themes, even when almost all of them were consistent with, and built on the existing CSR definitions and understanding (Carroll 1999), created an uncertainty with regards to the definition of CSR to the extent that the concept ended up having ‘unclear boundaries and debatable legitimacy’ (Lantos 2001, p. 1). This meant that by the end of the 1990’s there was a lack of a globally accepted definition of CSR (Lantos 2001)*” (p. 9). The rise and success of the syntagm “*CSR*” can thus be seen as partly resulting from its very ambiguity. However, looking back at the term’s history, the concept is still revolving around the same roots: interrogations around organizational responsibilities on E&S matters. The expansion of the concept of sustainable development can be analyzed as reflecting the changes in civil society expectations, with a shifting focus from industrialization, the emergence of a free market, climate concerns. In this sense, CSR history very well reflects and influences the expansion of the responsibility domain, and while there are common roots to questions surrounding responsibility, CSR history shows that organizational responsibility definition is still a challenge.

Second, Latapí Agudelo et al (2019) note that the acronym’s history also seems to demonstrate that CSR is marked by a major ambivalence. On the one hand, in line with Polanyi (1994), laissez-faire is planned: the globalization of E&S challenges is deepened through State reduction of State intervention, particularly rising in the 1970s and still manifest in recent cases. For example, Maher et al. (2019) show that contemporary governance crises of deregulation are most severe when the State “*actively organizes the passivity and diffusion of its capacity to intervene over the ‘public interest’*” (p. 1173). On the other hand, these challenges are tackled by attempts to strengthen State intervention through the rise of State coordination.

This perhaps explains the confrontation between various lines of thinking on organizational responsibility which can be described as below, (i) no E&S responsibilities, (ii) instrumental CSR (iii) the reintroduction of potential E&S trade-offs:

*(i) No E&S responsibilities.* Some schools of thoughts have contended that businesses have no E&S responsibilities, giving prominence to economic and financial value for shareholders in corporations, in line with Friedman (1962, 1970).

*(ii) Instrumental CSR: win-win leading to the actual preeminence of economic objectives.* The instrumental school of thought emphasizes the possibility to maximize all objectives, in line with the win-win approach as exemplified in Porter and Kramer (2011) theory. Instrumental thinking is characterized by the so-called “*business case*,” which suggests that being environmentally and socially responsible is profitable and that both E&S and economic objectives can actually be integrated. Instrumental CSR is not in contradiction with Milton Friedman, it rather builds on Milton Friedman with the intent to imagine the possibility of E&S business responsibilities and conveniently solve theoretical conflicts between E&S and economic objectives. Among practitioners, the business case has been particularly successful, and academic articles have shown that the business case was effective in certain specific cases (e.g., attracting skilled employees through CSR policies, see for example Albinger & Freeman, 2000, or saving through promoting energy-efficient operations, see for example Mills et al., 2008). However, as noted by Spitzbeck (2013), the ultimate decision-making criterion with the business case remains profitability: E&S objectives are a parameter of financial goals and financial objectives are not a parameter of E&S goals. Therefore, even though it may be framed as symmetrical, with the formulation “*win-win*,” pointing to a certain symmetry between E&S expectations and economic expectations, the intent of the business case is not symmetrical. As explained by Van Weeren (2021), this often leads to an inversion of ends and means: while one may initially want to subordinate economic and financial results to E&S objectives, the win-win convincing strategy (with regards to investors or corporate clients for example) would end up emphasizing the possibility of instrumentalizing E&S outcomes to better achieve economic objectives. E&S considerations would only be integrated to corporations’ strategies to the extent that they are aligned with their economic and financial objective of profit maximization. Whenever E&S objectives would not be aligned among

themselves and/or with profit (for example, at the industry level, profiting from coal production or avoiding coal in the context of climate change), win-win would not work and profit would remain paramount. In fact, certain articles go as far as arguing that instrumental CSR best practices actually share features of the Mafia, pointing to the fine line between organized crime and organizational crime in the name of CSR (Gond et al., 2009).

*(iii) The reintroduction of E&S considerations with potential trade-offs and additional qualification or regulation on economic objectives.* The win-win perspectives critiques have underlined the necessity to recognize CSR trade-offs as preeminent compared to CSR win-win situations (Hahn et al., 2010, Crane et al., 2013). According to these works, economic, social and environmental objectives cannot be simultaneously satisfied and maximized. Furthermore, it is not necessarily clear that shareholders are actually always seeking profit maximization, as explained by Aggeri (2015) by quoting Gomez (2003) in his discussion of Jean Tirole's ideas about the firm. Looking at CSR as the object of political trade-offs (for example when one would seek reasonable profit as opposed to maximum profit) opens the door to perspectives which give prominence to E&S considerations – where E&S matters are no longer considered as secondary adjustable parameters within economic strategies of corporations but instrumentalizing financial objectives for the purpose of E&S normative objectives. This can also be accompanied by a politicization of CSR, after a certain apolitical take on CSR through the win-win literature: as soon as there are trade-offs, this requires political choices, and the subject is no longer purely technical.

One should note that these three lines of thinking are not necessarily different in nature but rather situated on a spectrum of thoughts reflecting the movement from limiting organizational responsibilities to profit to the relative or radical introduction of E&S objectives. As noted by Latapí Agudelo et al (2019), there may be a sequential movement of expansion of CSR beyond economic objectives, but there is a need to note this sequence can also be seen as a progressive superposition of various schools, especially schools focused on win-win perspectives and schools focused on trade-offs, which both have significant and current bodies of literature.

This broad historical overview of the rise and challenges of CSR as a key concept to study organizational responsibility in the Management literature is crucial to better understand

and situate the relevance of this study for CSR and the relevance of CSR for this study from a theoretical perspective.

### **1.2.3 In search of a theoretical framework to study OSER definition: combining philosophy and PCSR**

In light of the lack of a clear definition of responsibility in the Management literature as well as the conceptual and historical expansion of responsibility, one may feel at a loss when searching for the right theoretical framework to tackle the question of OSER definition.

While the CSR literature does not provide clear theoretical tools to actually address the conceptual challenges associated with responsibility definition, one specific strand of the CSR literature, PCSR, is particularly fruitful when it comes to studying OSER ever-evolving definitions in face of global governance challenges.

#### ***PCSR***

In their paper entitled “*Managing for Political Corporate Social Responsibility - New Challenges and Directions for PCSR 2.0*,” Scherer et al. (2016) define PCSR as follows:

*“PCSR entails those responsible business activities that turn corporations into political actors, by engaging in public deliberations, collective decisions, and the provision of public goods or the restriction of public bads in cases where public authorities are unable or unwilling to fulfill this role. This includes, but is not limited to, corporate contributions to different areas of governance, such as public health, education, public infrastructure, the enforcement of social and environmental standards along supply chains or the fight against global warming, corruption, discrimination or inequality. These corporate engagements are responsible because they are directed to the effective resolution of public issues in a legitimate manner, often with the (explicit) aim of contributing to society or enhancing social welfare, and are thus not limited to economic motivations.”* (p. 276).

PCSR literature underlines that organizational responsibility debates are embedded in political and societal contexts that have to be taken into account to understand the current shaping of organizational responsibility. It particularly builds on the assumption

that government's roles have shrunk in the last decades, hence private businesses taking on a "*State-like role*" (Scherer & Palazzo, 2011, p. 900), even though these businesses would keep pursuing private interests and not be elected democratically. In the context of a global governance in crises, where our ability to identify responsible and capable entities is shrinking but our need to establish global coordination for action is rising, PCSR reintroduces the political dimension of organizations' activities, particularly focusing on the increasing political role of private organizations (Aggeri, 2021). With PCSR, the literature on organizational responsibilities takes a "*political*" turn in the face of globalized challenges and the need for organizations to build organizational legitimacy to take action as well as make compromises between various claims and expectations related to public goods. It assumes that state agencies have a changing role (Scherer et al., 2016), and although it mainly focuses on private organizations, it establishes a conceptual world where questions around State responsibility fit: how to close the governance gap on responsibility at the local, regional and global level? How is responsibility defined, found legitimate by different stakeholders? This political turn is very literal, with an emphasis on political considerations, as well as underlying deliberations, collective decisions and a concern for (global) public goods (Scherer et al, 2016).

PCSR therefore appears to be a privileged stream of work to study social dynamics at play in defining responsibility, going beyond a legal understanding of responsibility and the traditional individual focus of theories on responsibility, taking into account renewed political interactions and issues related to changing roles in the context of global governance, in order to apply the concept of responsibility to concrete organizations.

While PCSR is characterized by similar shortcomings to those of CSR when it comes to actually providing a framework to study OSER definition, it is much more concerned with the substantial shifts of OSER definition, because it focuses at its core on the shift of business responsibilities, and some PCSR studies use fruitful philosophical tools to better understand the shift of OSER contents.

In particular Palazzo & Scherer (2006) as well as Schrempf (2012)'s works in PCSR initiated particularly valuable and key insights for the study of OSER definition. Palazzo & Scherer (2006) analyze the expanded responsibilities of businesses by re-embedding the debate on corporate legitimacy into its broader context of political theory: they

specifically describe the politicization of the corporation based on the public assumption that responsibility can be assigned to an actor if it is connected to the issue even though it is not blamed for it. Schrempf (2012) studies the delimitation of CSR, and how the delimitation of CSR evolve to reach new actors in the value chain, going further upstream (corporate responsibilities in relation to their suppliers' violations) and downstream (corporate responsibilities for how their products harm society, e.g., how car consumers increase GHG emissions), as well as the emergence of calls to take up historic organizational responsibilities (e.g., multinational corporations' responsibilities towards Holocaust survivors and apartheid victims).

Both Palazzo & Scherer (2006) and Schrempf (2012) use a cornerstone model, emphasizing the ever-evolving negotiated essence of responsibility: Young (2006)'s social connection model.

Indeed, Young (2006) states that responsibility has long been restrained to a liability model of responsibility, characterized by a (i) focus on causality, (ii) retrospective argumentation and (iii) isolation of those who are attributed a responsibility and those who are not (Fletcher, 1999 quoted by Schrempf, 2012). Building on Young (2006), Schrempf (2012) also adds that the liability model (iv) takes legal rules and moral customs for granted and interprets them as static background conditions, and (v) adopts a community focus that does not allow for taking into account global issues.

The limits of this liability model are obvious and it does not allow for a proper investigation or understanding of the World Bank's responsibilities as (i) the World Bank does not in general *directly* cause those (social, environmental or otherwise) issues for which it is held responsible albeit partly by affected parties, in particular the World Bank is not directly involved in project implementation, (ii) the World Bank's responsibility may be backward and forward-looking - the World Bank's history shows CSOs have sought that the World Bank recognizes its past adverse impacts (backward-looking responsibility) and promoted that the World Bank provides repair for its past harm (forward-looking responsibility to repair actual adverse impact it caused) and/or integrate lessons learned to future projects (forward-looking responsibility to prevent or stimulate an impact that is still potential), (iii) numerous stakeholders are usually involved in development projects, including the World Bank and Borrowing States, in such contexts responsibility can

hardly be attributed to one unique party, (iv) legal rules and moral customs are evolving, alongside with the role of the World Bank, (v) the World Bank is concerned with community impacts as well as global issues. For these reasons it is necessary to go beyond the traditional liability model of responsibility.

To go beyond this restricted model of responsibility, which does not capture current debates on responsibility, Young (2006, 2011) suggests a social connection model. Using Young (2006), Schrempf (2012) defines the social connection logic as being characterized by (i) social connection, (ii) shared responsibility, (iii) prospective perspectives, (iv) the questioning of background conditions and (v) cosmopolitanism, not leading to an individual focus but rather to a possible connection to global issues. By using the concept of social connection as opposed to cause, Young (2006) opens the floor for an expanded responsibility, which is not completely deprived of any causal concept, but goes beyond a traditional concept of direct cause by assigning responsibility to people who “*are part of the process that causes*” structural injustices (Abländer, 2021, p. 4), which result from “*the unintended consequences of the combination of the actions of many people*” (Young 2011, p. 53, quoted in Abländer, 2020, p. 3). Moreover, this connection can be interpreted as being existential (because responsible parties belong to the same community), causal (because responsible parties contribute to the maintenance of structural injustices through their participation in the social structure), or dependence-based (because responsible parties depend on the parties they are responsible for) (McKeown 2018, quoted in Abländer, 2021, p. 4). This model goes beyond a typical backward-looking responsibility, and focuses in a forward-looking manner on “*collective action*” (Abländer, 2020) and “*how to combine social resources of all layers in society to overcome social injustices, or at least to minimize their negative effects in the future*” (Abländer, 2021, p. 4). Schrempf (2012) pragmatically uses this expanded definition of responsibility for organizations, noting that adopting such a social connection perspective allows for a better understanding of complex challenges such as human rights violations in conflict zones, global warming, water shortages, and obesity. For a more detailed description of how Young has been used in the PCSR literature, one can refer to Philipps & Schrempf-Stirling (2022).



This social connection model and how it has been used is pivotal to our understanding of responsibility, as it emphasizes the ever-negotiated and constructed aspects of responsibility, which are crucial to understand today's debates on responsibility.

However, Young's model is also criticized for some imprecisions. In particular, Neuhäuser (2014) mentions that under Young's lens, it remains unclear "*who has to do what,*" especially pointing to the fact that "*Young says little about how the shared responsibility is distributed between different agents, and what constitutes the criteria of eligibility*" (p. 242). Neuhäuser (2014) particularly points to the unclarity of Young when it comes to the concept and roles of organizational agents, as opposed to individuals. Neuhäuser (2014) suggests four questions that can be used for an unbiased examination of responsibility, as these questions open the door to complete statements about responsibility: "*(i) Who is accountable (ii) to whom, (iii) for what, and (iv) on the basis of which moral standard?*", arguing that Young is not sufficiently precise in responding to all of these questions.

While this study welcomes Neuhäuser (2014)'s suggestions, it still puts the emphasis on two key contribution of Young's work on responsibility: (i) the emphasis on the negotiated character of responsibility, (ii) focusing our understanding of responsibility on a specific set of criteria revolving around the types of connection one organization may have to a specific impact, which is key to understanding responsibility in the context of complex intricate global organizational interactions.

In this study, after building on Ricoeur (1994) to strengthen our understanding of conceptual challenges related to responsibility, I now draw from both Young and Neuhsauser to establish specific questions to elaborate a responsibility definitional framework allowing us to study OSER definition, as described in the below sub-section.

#### **1.2.4 Studying OSER through a responsibility definitional framework**

In order to investigate OSER definition, this study does not focus on the ontological essence of organizational responsibility on E&S matters nor does it take a normative standpoint to conclude what the OSER or even the World Bank's OSER should be. Rather, it focuses on a descriptive analysis of the World Bank's OSER definition, involv-

ing various stakeholders, including World Bank Executive Directors, World Bank staff, Borrowing countries, other development banks representatives, and CSOs. However, as we have seen above, this still requires descriptive tools to be able to actually study OSER definition.

### ***A set of open questions***

Building on Ricoeur (1994), Young (2006, 2011) and Neuhäuser (2014), this study adopts a broad definitional framework of responsibility, trying to comprise the way different stakeholders may talk about responsibility in the context of OSER definitional moments, and assuming that actors may debate about responsibility without necessarily using the exact terms “*responsible*” or “*responsibility*.”

In line with Ricoeur (1994)’s argument and as explained by Neuhäuser (2014) “*Responsibility is rather a relatively loose term that can be used effectively in different contexts and in quite different ways*” (Neuhäuser, 2014, p. 234). Although the miscellaneous uses of responsibility can be seen as triggering a relative conceptual and practical chaos when it comes to defining responsibility, deciding to opt for a broad definitional framework to study OSER definition as a starting point for this study does not participate in steering this confusion.

The ambition of this definitional framework is to provide substantial tools to actually tackle the question of OSER definition, while remaining open enough that several ideas about responsibility can be comprised in this study. As we have seen, responsibility can be based on law, a close but distinct liability model or socially connected. It can also be both backward-looking and forward looking. It can be individual, collective (when a collective actor acts as a unit) or shared (when one wants to emphasize the distinct elements constituting the collective unit).

All of these viewpoints influence each other in the process of OSER definition. For example, socially constructed responsibility (whether built on moral or other factors) is largely influenced by legal considerations, and legal considerations can also be seen as socially constructed (see Maher et al., 2021, quoting Edelman & Stryker, 2005). Similarly, while there is a need to avoid isolating a responsible party by excluding or absolving other possible responsible parties (which is sometimes a criticism made to the legal liability

model, see for example Philipps & Schrempf-Stirling, 2022), there is also a need to avoid diluting responsibility by not allowing the possibility to attribute responsibilities to single responsible parties in a context of collective responsibility (which is sometimes a criticism made to concepts of collective responsibility, see for example Aßländer (2020) about Arendt).

I contend that such various viewpoints on responsibility are not necessarily opposed (although such oppositions - for example in the introduction of the article written by Philipps & Schrempf-Stirling in 2022 - may conceptually be instrumental to sketch out the key conceptual distinctive elements of these models when describing them). Young (2011) herself states: *“I do not aim to replace or reject the liability model. I am claiming instead that the liability model is appropriate in some contexts but not all”* (p. 719) - the social connection model is fundamentally designed as a supplemental and complementary model. Philipps & Schrempf-Stirling (2022) also mention that the social connection model can be seen as encompassing the liability model or overlapping with the liability model. For this study, in order to study OSER definition with a descriptive definitional framework, I argue an approach emphasizing the complementarity of models is more fit for purpose, and openly integrate different viewpoints on responsibility.

This definitional framework consists in defining a key set of questions on responsibility. While, as described above, Young’s approach can be seen as a response to Ricoeur (1994)’s call to study responsibility as an evolutive concept that can be seen as case-by-case, I draw on Neuhäuser (2014) to define a core set of questions and further complement these core questions with several questions revolving around cause, building on Young’s analysis of responsibility.

The first set of questions is inspired by Neuhäuser (2014)’s main questions on responsibility: Who is responsible? For what outcomes is the party primarily responsible? To whom is the party responsible? On the basis of which standard is the party responsible? Regarding Neuhäuser (2014)’s question, although it pertains to moral standards, I have decided to expand my question to encompass broader standards. This is because in OSER debates, legal standards often take precedence in determining responsibility for various tasks, rather than solely relying on moral standards as the deciding factor.

Building on Young's approach to responsibility as well as the model Young criticizes, I also establish another set of questions to complement the above and put an emphasis on the concept of cause, or the refusal of cause, in understanding responsibility. Indeed, taking into account both the liability model and social connection model of responsibility, OSER is the organizational obligation to take an action that may derive from different types of responsibility: (i) Concerning potential impacts, is the organization responsible through a forward-looking responsibility to prevent future adverse impacts or stimulate future beneficial impacts?, (ii) Concerning actual adverse impacts, is the organization responsible through a backward-looking causal responsibility, which may include either direct or indirect impacts, as well as intentional or unintentional impacts. In this study, this will be seen as equivalent to the following question: concerning actual adverse impacts, is the organization responsible through a forward-looking responsibility to repair past impacts it has caused? and (iii) Concerning actual adverse impacts, is the organization responsible through a forward-looking responsibility to compensate for past impacts it has not caused? One has to note that drawing attention to the concept of cause as well as forward and backward types of responsibility is in line with frameworks like the United Nations Guiding Principles, which emphasizes the notion of prevention, direct cause, contribution and linkage, although the United Nations Guiding Principles do not delineate the forward-looking responsibility to compensate for impacts an organization has not caused.

The below table summarizes the key set of questions constituting this study's responsibility definitional framework.

Table 2: Responsibility definitional framework

|  |
|--|
| <b>Determining key elements of responsibility</b>  |
| Who is responsible?  |
| For what outcomes is the party primarily responsible?  |
| To whom is the party responsible?  |
| On the basis of which standard is the party responsible?   |
| <b>Determining the connection to the impact</b>  |
| Concerning potential impacts, is the organization responsible through a forward-looking responsibility to prevent future adverse impacts or stimulate future beneficial impacts?   |
| Concerning actual adverse impacts, is the organization responsible through a backward-looking causal responsibility, which may include either direct or indirect impacts, as well as intentional or unintentional impacts? This question will be considered equivalent to the following: concerning actual adverse impacts, is the organization responsible through a forward-looking responsibility to repair past impacts it has caused? |
| Concerning actual adverse impacts, is the organization responsible through a forward-looking responsibility to compensate for past impacts it has not caused?<br>Such responsibility will also be called non-causal responsibility.  |

Several remarks must be made on this framework. I note that causal responsibility is subject to debate and that further interesting questions may be asked: can someone who has not acted to prevent a situation be considered responsible of this situation, in line with the concept of failure to assist a person in danger? As put by Jean-Paul Sartre, *“if I do not choose, that is still a choice.”* (Sartre, 1946). I note that this question resonates with forward-looking responsibility to prevent an impact and, if the impact materializes, the backward responsibility of the accomplice who has not acted to prevent the impact. I also note that the responsibility to prevent future adverse impacts and stimulate future beneficial impacts can in theory be distinguished, as one is more of a *“do no harm”* responsibility, while the other constitutes a *“do good”* responsibility. However, as part of

this study, I will treat both as part of the same question, and consider that responsibility for inaction is already encompassed in the above questions.

Furthermore, this definitional framework does not include a distinction between causing and contributing or between a contribution that would consist in incentivizing or facilitating, in order to keep the definitional simple, but I consider this granularity useful when diving deeper to address the question of backward-looking causal responsibility, as these distinctions are different ways to describe the way a party can cause or be connected to an impact. As described by the Dutch Banking Sector Agreement (DBA) Discussion Paper by the Working Group on Enabling Remediation (2019), *“incentivizing implies a situation in which the other party might not have taken the action that led to the impact, but was motivated to do so by the actions of the bank.”* (DBA, 2019, p. 34). For example, if the World Bank advises cutting certain costs that would result in harm to the World Bank clients’ employee’s health and safety. The DBA paper further notes *“facilitating implies a situation in which the other party was already likely to take the action that led to the impact, and the bank’s actions (or inaction) made it more likely that the other party would do so”* (DBA, 2019, p. 35). For example, if a bank provides a loan and does not conduct adequate due diligence on the measures implemented by the client to relocate indigenous peoples (including consultation and compensation).

I also note that the questions on backward-looking responsibility for past adverse impact and forward-looking responsibility to repair adverse impact that has been caused can be seen as very similar and will be treated as the same. A scenario where the internal or external stakeholders of an organization would recognize backward-looking causal responsibility for past impact and not recognize forward-looking responsibility to repair such impact is unlikely (although I note it may be more likely for individuals). The distinction between backward-looking responsibility for past impact and forward-looking responsibility is rather relevant to emphasize those cases where the party is responsible for compensating for the impact it has not caused. Forward-looking responsibility to compensate for the impact I have not caused, or non-causal responsibility, comes into play where actors who caused the impact are not able to repair the impact or where there is no identifiable party that can be causally linked to the impact. As the impact still needs to be remedied, this requires the intervention of an additional actor, responsible

for compensating for the impact it has not caused: this party would not be responsible from a backward-looking perspective, but it would be responsible from a forward-looking perspective.

Another question can be raised: if I am benefiting from a situation, can I be seen as causing this situation? In other words, is a party responsible for E&S impacts as it benefits from E&S impacts? Responding positively is in line with Young's model based on participation in structural injustices, and this aspect is also particularly developed in Calder (2010) with the concept of unjust enrichment. While interesting, this question covers a wide variety of very different cases that may have different answers and is also a sub-question of the question related to backward-looking causal responsibility. Therefore, it is not included in the above set of questions either. An alternative question is the following: if I am benefiting from a situation but not seen to be causally linked to it in any way (i.e. where I am not participating in structural injustice, where I am not connected to, contributing to or causing the impact), am I responsible to tackle it? I consider that this question is a sub-question of forward-looking responsibility to compensate for the impact that I am not causally linked to.

Finally, as this model is a set of open questions to analyze responsibility in a descriptive manner, as opposed to being normative, it does not decisively guide the reader on how to define responsibility, in order to remain open to how OSER is concretely defined. I note that recent articles make very promising suggestions to normatively guide such responsibility definition. For example, Abländer (2021) suggests that the tenet of subsidiarity, derived from Catholic thought, is *“a formal principle that describes the way for finding solutions and for distributing responsibilities to contribute to (...) solutions among the various actors in society.”* As described in Abländer (2021), subsidiarity rests on the idea that *“society is composed of different layers structured by a natural hierarchy, beginning with the individual and the household at the bottom and the polis or the state at the top (Aquinas 1981, I, II, 90, 3, II, II, 50.3)”* Abländer (2021, p. 6). Subsidiarity is based on this natural hierarchy, adopting a bottom-up approach: in particular, *“subsidiarity recommends that in a society no task should be assigned to a higher level of authority if it can be accomplished by a lesser and subordinate entity.”* Abländer (2021, p. 6). The *“higher”* level of the hierarchy has a responsibility only if the *“lower”* level cannot fulfill

this responsibility. The last level of the hierarchy therefore constitutes the last resort responsible party. Quoting Krasner (2004), Aßländer (2021) notes such subsidiarity may be applied beyond national organizations to include international governmental and non-governmental actors. In fact, using Krasner (2004), Aßländer (2021) takes the World Bank as the typical example of a “*higher*” level actor that may intervene in the case where “*lower*” level actors are failing. Indeed, despite all the environmental and social controversies associated with the Chad-Cameroon pipeline, Krasner (2004) interprets the Chad-Cameroon pipeline as a successful albeit watered down form of shared sovereignty where Chad and Cameroon “*had been badly governed.*” (Krasner, 2004, p. 111). While as mentioned the responsibility definitional framework presented above is not meant to be normative and does not follow the tenet of subsidiarity, I note the results stemming from the application of such descriptive definitional framework to a concrete case like the one of the World Bank can be a fruitful exercise shedding light on recent theoretical normative proposals to define responsibility like the tenet of subsidiarity.

According to PCSR which emphasizes the importance of seeing responsibility as a social construct, all the questions included in our definitional framework can be the object of negotiation. This emphasis on negotiation opens the door to refine this study’s research question on responsibility definition, as described below.

### ***OSER definition as OSER negotiation***

One crucial consequence of Young’s social connection model applied to organizations is that the nature of organizational responsibility is not granted anymore. Background conditions (i.e., legal rules and traditional moral customs) are not static and may evolve. Thus, responsibility may change as well. This is captured by Reinecke & Ansari (2016, p. 300) who state that “*responsibility is socially constructed through collective negotiation.*” Schrempf (2012) for example describes the evolution of NGOs demand to move beyond direct suppliers and include the complete production process from resource extraction to production assembly. For example, H&M is criticized as they source their cotton from Uzbekistan, where children are forced to harvest the raw product with low payments and inadequate health and safety standards (Environmental Justice Foundation, 2002, 2007, quoted in Schrempf, 2012). From this perspective, OSER definition has to be interpreted as OSER negotiation.



This added emphasis on negotiation has several implications for this study. Negotiation can be defined as an “*activity where several actors, confronted to both divergences and interdependences, interact and chose to voluntarily seek a mutually acceptable solution*” (Dupont, 1994, p. 112). A negotiated order is “*an outcome of the interplay of the variety of interests, understandings, reactions, and initiatives of the individuals and groups involved in the organization*” (Watson, 2001). In line with PCSR models of organizational responsibilities, from the negotiated orders perspective, responsibility definition is less an abstract and fixed construct imposed onto organizations as guiding and constraining their roles, norms and values, than a result of the negotiation between organizations of their roles, norms and values, shaped by argumentative and power play, and leading to a situated notion of responsibility.

Studying OSER negotiation implies studying the parties, the position from which parties talk (their interests, understandings, power), the way parties interact (the parties’ strategy, including both arguments and other means like media campaign, expert reports, coalition building and lobbying, as well as their non-strategic reactions), the negotiation context (the rules and process of the negotiation itself as well as the structural determining factors) and the negotiation result.

Beyond a mere characteristic of the negotiation parties, as well as arguments put forward in a negotiation, power is also seen as consubstantial to negotiation processes as negotiation can be seen as the expression and shaping of power in the path towards collective agreement. Power dynamics considered as key in several works on negotiation process (Kim et al., 2005, Friedberg, 2009). In particular, although Scherer & Palazzo have emphasized the importance of the “*deliberative democracy*” as conceptualized by Habermas, other scholars have suggested that this concept was overly optimistic for a descriptive purpose, as negotiation processes are rife with power asymmetry, and actors cannot be seen as promoting rational, technical solutions serving the interest of a globalized society (Fraser, 1990, Levy et al., 2016, Sabadoz & Singer, 2017), especially as location, language and resources can act as a barrier to participation. This is perhaps all the more relevant when it comes to the question of responsibility, which is interlinked with the question of power, given that, as mentioned in this study by Ricoeur (1994), power, i.e., the capacity to act, conditions actors’ responsibility. Power can be seen as implying interference of

the powerful party or leverage of the powerful party to promote certain norms. There could be both a responsibility to not use power to respect other actors' autonomy (where interference is seen as an illegitimate influence on a certain course of action) or a responsibility to use power on other actors (when leverage is seen as an opportunity to influence a certain course of action).

The natural propensity for organizations to increase the organization's power can be interpreted as part of what I call the organization's conatus, i.e., the organization's natural tendency to maintain and grow, in line with Spinoza's definition of the conatus "*Each thing, as far as it can by its own power, strives to persevere in its being.*" (Ethics, Part 3, Prop. 6). However, the increased power can also trigger the expansion of responsibility. From this perspective, responsibility expansion, especially in IGOs, may in part be explained by the organization's conatus, leading IGOs to cover as many topics as possible. Nonetheless, even though power increase and responsibility increase may be interlinked, an organization may intend to increase power more than it intends to actually increase its responsibility, especially as responsibility, although somewhat stemming from power, can also be seen as power reduction, especially when organization's responsibility leads the organization to be required to account (if not pay compensation) for its actions.

As such, while power is a crucial concept, it remains very difficult to grasp. As mentioned by Neuhäuser (2014), Young "*gives no advice as to how responsibility can be distributed along the criteria of power, privilege, interest, and collective capacity.*" (p. 248).

A negotiation lens also brings the focus on the notion of compromise, as the negotiation result. Compromises or mutual accommodation can be seen as representing "*investment into a joint project that neither party orchestrates, yet which both seek to steer in their interest*" (Levy et al., 2016, p. 393). Compromises can take many forms, including the little common denominator compromise, strategic concessions (Levy et al., 2016), or decoupling strategies which are in between compromises and avoidance (e.g., policy-practice decoupling, with gaps between norms and behaviors, means-end decoupling, discourse-content decoupling, with gaps between the discourse on a policy and the actual policy as described by Ormazza & Ebert in 2019). For a compromise to be accepted by all parties as an acceptable solution, i.e., a compromise as opposed to a disagreement, it needs to be considered legitimate. One important caveat, in line with the above reflection on power

play in negotiations, is that the compromise may be a compromise among powerful actors in practice, leaving powerless actors out of the compromise. Nonetheless, legitimacy building, at least among powerful actors, is crucial, and legitimacy building strategies are crucial to understand how compromises are built. As explained by Maher et al. (2021) building on Edelman (2016), new soft rules are sometimes more effective for legitimacy building than actually regulating: as a response to legalization process, organizations establish law-like “*symbolic*” structures that “*lend legitimacy to organizations in the eye of the law*” while “*maintaining sufficient flexibility to preserve managerial prerogatives and practices that are seen as advancing business goals*” (Edelman, 2016: 31–32 quoted by Maher, 2021, p. 43). The interaction between power and arguments or legitimacy building strategies may be complex. Risse & Kleine (2010) contribute to this debate by assessing under which circumstances arguments affect negotiating actors’ preferences and subsequently lead to outcomes that are not easily explained in pure bargaining terms. They suggest a set of factors that are conducive to the need to persuade: that stakeholders have different roles and identifies, that the negotiation is public and transparent, that negotiations are done behind closed doors where stakeholders know about each other preferences, that institutional procedures privilege expertise and moral competence. They suggest a set of indicators that show that a consensus is reasoned, including Indicators for a ‘reasoned consensus,’ including the fact that: actors give the same reasons for an agreement, the agreement is surprising, the agreement has often ‘problem-solving’ character above the lowest common denominator, there is an early agreement, weak actors have influence. Another key article contributing to this debate is that of Gond et al. (2016) who show that power and justification interact, especially by showing how ‘power boundaries’ restrain the possibility of justification and how ‘normative boundaries’ limit the effectiveness of power building tactics. One also needs to note that negotiations may not lead to an actual decision making and compromise can lead to both strategic decisions or strategic indecision (Denis et al., 2011). Indeed, as put by Denis et al. (2011), organizations may cultivate indecisions and strategic ambiguities, whereby “*multiple participants find themselves trapped in a kind of twilight zone of perpetual decision making*” (p. 229) when they have both sufficient and insufficient common interests.

Given this study emphasizes the need for more theorizing on organizational responsibility while focusing on responsibility as an ever negotiated social construct and the object of

responsibility compromise on concrete cases as per Ricoeur (1994)'s proposed solution based on *phronesis*, there is a need to actually apply questions around responsibilities to specific cases to understand the claims around power, privilege, interest, capacity and how distribution may be perceived. Above, this literature review has unpacked key definitional challenges around responsibility, addressing a key definitional gap in the Management literature and pointing to Management as a privileged discipline to renew our understanding of responsibility through PCSR and beyond philosophy and law on concrete cases that are the object of ever evolving negotiations. I will now dive more closely into the specific value add of the World Bank as a case study to analyze OSER negotiations, and underline the potential key contributions the World Bank may constitute as an object of study in the context of CSR and PCSR literature.

### **1.2.5 Relevance of a case study on the World Bank, at the cross-road of CSR and PCSR gaps**

Even though this study's research question can concern any organization, this literature review points to the need to apply these questions to concrete situations through the concept of *phronesis*. Even though this study remains at the policy level, it focuses on a concrete organizational context, the World Bank ESF consultation, which is also particularly relevant to the CSR literature and to the study of responsibility. Beyond the definitional gaps tackled earlier in this literature review through the use of philosophy, studying OSER in the World Bank context allows us to explore questions that have remained grey areas common to the CSR and PCSR literature. While there may be suspicion in some studies that the contribution linked to case study objects is limited to applying any given similar theoretical question or theory to a different object without much substantial theoretical addition, this study posits on the contrary that the World Bank as an object actually conceptually re-structures some of the theoretical questions raised by CSR, thus rooting the conceptual relevance of this study in the object itself as well as in the question.

- *Interconnection among stakeholders claims.*

Wang et al., 2016 show the need to examine interconnection among different stakeholders' claims, going beyond a binary perspective distinguishing only shareholders from other stakeholders and without systemically giving the primacy to shareholders' claims, in order to take interdependencies but also conflicts of claims seriously, and study how these conflicts may be resolved. They suggest that work on hybrid organizations combining social welfare logic and commercial logic or work on collective actions problems such as climate change would be particularly relevant to tackle the interlinkage between various stakeholders' claims. They also mention that there is a need not to neglect potential conflicts between non-shareholders stakeholder groups. Studying conflicting demands and potential resolution of these conflicts is also an important manner to tackle the fact that CSR may indeed involve trade-offs between goals (Wang et al., 2016), even though, as per the win-win approach, goals sometimes align in a synergetic manner. This may imply certain power dynamics, as underlined by critical PCSR scholars. For example, as mentioned, some scholars have suggested that the view according to which PCSR evolution represents a positive development for enhanced accountability is "*overly optimistic*" and "*neglects asymmetric interests and power, such that the practice of civil society interactions is far from the ideals of deliberative democracy*" (Levy et al., 2016, p. 367). According to critical PCSR scholars, "*deliberative democracy is an illusory panacea for globalized, complex societies in which "there are no common goals, values and goodwill, but instead highly contested and competing goals, distinctive and divisive values"*" (Levy et al., 2016, p. 368). Studying the World Bank is a privileged object of study from that perspective. A binary perspective on the World Bank, only taking into account shareholders on the one hand and other stakeholders on the other, would be too simplistic to describe the organization's dynamic. First, shareholders are too diverse geopolitically, as the World Bank is a multilateral organization, not a bilateral organization. Second, the World Bank stakeholders may sometimes rejoin certain shareholders' claims, sometimes oppose shareholders, and there may be an alliance with certain shareholders depending on the external stakeholders at hand. These oppositions, but also alliances, are a good opportunity to take conflicts and interdependencies seriously in the account of the process to define OSER.

- *Emerging economies.*

Wang et al., 2016 also point to the fact that *“the evolution of CSR in other institutional contexts, especially in some emerging economies, is much less understood and deserves scholarly attention.”* (p. 541). Wang et al., 2016 precise that institutional logic in emerging economies may be different than in developed countries, given the fact that poverty may influence a different type of social contract. This confrontation of logics becomes particularly pronounced in the context of globalization. PCSR scholars argue traditional CSR has neglected the specific challenges posed by globalization, by focusing on domestic context (Scherer et al., 2016). However, Wang et al., 2016 note that globalization and the increase of interconnection of the world economy enhance the potential competition between distinct institutional environments and the challenge to respond to various competing demands. They also note that studies on multinational enterprises point to the fact that multinational enterprises *“have reacted to mounting stakeholder pressure by shifting their socially irresponsible practices to subsidiaries located in countries with lax stakeholder pressure”* (p. 541), exemplified through E&S dumping, thus pointing to the interest of global focus onto CSR. This call is in line with findings in development studies on the fact that the CSR agenda has been driven by the priorities of Western countries in a way that has been insensitive to developing countries’ specific context and priorities (Idemudia, 2011), and the need to further develop the southern critical CSR agenda, particularly by focusing on *“where the drivers for responsible business practices exist in the South”* (p. 5), especially the role of governments to drive CSR. Idemudia (2011) also emphasizes the need to further understand the linkages between CSR and development, especially by studying *“the processes that informs CSR–development relationships”* (p. 7). Once again, the World Bank is a privileged setting in this context, as it is precisely a study of E&S issues and responsibilities debates taking into account both the perspective of various stakeholders in emerging economies and concerns regarding the practicality of E&S considerations and requirements in these emerging economies.

- *Underlying institutional mechanisms.*

Aguinis & Glavas (2012) note there is still room to improve our understanding of the underlying mechanisms of CSR. While Aguinis & Glavas, 2012 argue studying underlying

mechanisms of CSR could be done by focusing on individuals, Wang et al., 2016 show how a globalized approach to institutional factors, including both developed and developing institutional environments, may also strengthen our understanding of the shaping of corporate goals by institutional environments. Indeed, as underlying assumptions in emerging economies may differ from those of developed countries, studying CSR at the intersection of institutional environments may strengthen our understanding of CSR underlying mechanisms. The case in this study is a consultation at the crossroads of various institutional environments, given its multilateral setting, and may thus also provide more insights into the underlying assumptions related to distinct institutional environments.

- *Global value chains perspectives.*

CSR studies note the need to integrate theories on global value chains. Particularly, in PCSR, Scherer et al. (2016) point to the fact studies on tertiary and quaternary sectors may be strengthened as “*studies on ethical issues in the banking industry are still rare although the popular press is full of corporate scandals in which bankers and financial intermediaries are involved.*” (p. 286). A study on the World Bank may also be quite interesting to explore these gaps. Although there may not be room to study the responsibility of all actors on the global value chain when focusing on various different claims around the responsibility of one actor of the global value chain, a study of the negotiation of the World Bank OSER is a first step towards looking at a global value chain which includes various sectors, and how the responsibility of financial actors may be defined. Scholars also add that PCSR may reinforce research on the way organizations may make sense of their own political responsibilities: “*It appears that the way corporations balance various discourses within the organization and how they connect these discourses with their environment is central to the understanding of how PCSR is managed (Patriotta et al., 2011; Vaara and Tienari, 2008). How do organizations make sense of their political responsibilities, especially in light of conflicting internal and external demands (Pache and Santos, 2010; Scherer et al., 2013b)*” (Scherer et al., 2016). From that perspective, a study of a consultation process is ideal to understand the different types of responsibility definitions and how the organization makes sense of its own responsibility in a final ESF.

- *From private corporations to States: responsibility in a political context.*

One needs to note that the Management literature is focused on private corporations, even conceptually, through a conceptual framework on CSR and PCSR by definition dedicated to private corporations, while the rise of CSR as described by Latapí Agudelo et al., (2019) is evidently structured by strengthened coordination among States through the multiplication of intergovernmental bodies which tackle both private and public organization responsibilities. The gap is not even particularly emphasized in the most cited meta-analysis mapping current research on CSR (Aguinis & Glavas, 2012, Frynas & Yamahaki, 2016, Wang et al., 2016), as these works are still focused on private corporations.

Going beyond the observation that the States is relatively absent in CSR and PCSR studies, some scholars have even argued that PCSR would be “*suspiciously compatible with corporate deregulation and privatization of the public sphere*” (Rhodes & Fleming, 2020, p. 1), in line with the idea that renewed governance systems would enhance the privatization of public goods and the publication of private goods at the expense of actual regulations, in a context where standards and norms would now be in competition on a market of ideas (Supiot, 2015).

However, some Management studies remind us of the need to study the State when it comes to CSR (e.g., Gond et al., 2011, Djelic & Etchanchu, 2015, Schrempf-Stirling, 2018). The need to study CSR from a different States lens is also emphasized in development studies. For example, Idemudia (2011) states that “*the failure to critical engagement with the role of government in CSR and its relationship with the nature and character of the state (...) There is therefore the need to not only explore the ramifications of government inadequacies for CSR practices but also ways to strengthen governmental institutions as well as the specific collaborative strategies civil societies can adopt to enhance government capacities.*” (p. 12). Nonetheless, most of these studies’ focus is on the role of States in shaping obligations for the corporate world, and not on the role of States themselves. Even when pointing to this gap, PCSR is by definition focused on corporations and calls for studying States rely on the extent to which States could influence corporations responsibilities, including when it comes to intergovernmental organizations: “*PCSR has yet to explore the dynamics of the emerging multi-level schemes*



and how the OECD, the EU, the UN and other intergovernmental organizations weaken or strengthen the role of national authorities in pursuing their social or environmental agendas vis-a-vis business firms.” (Scherer et al., 2016, p. 284). Most of the calls “have focused on highlighting the continued importance and relevance of the state in organizing business–society relations” (Maher et al., 2019, p. 1170). In doing so, the focal has mostly remained private business and it can be argued that “the profound ambiguity of the organized state in times of governance has yet to be fully understood.” (Maher et al., 2019), even though recent articles conduct a more thorough analysis of States’ role (see for example the account of States’ “governmentalities” from material, direct, central to dematerial, dispersed, vouching in Maher et al., 2019).

While not the focus of study in most CSR articles, States have been recognized, even within the CSR literature, as the primary holders of organizational E&S responsibility and States are also a privileged platform to observe political power plays between actors as suggested by critical PCSR. When arguing that companies should not take on responsibilities beyond making profit, scholars have stated that States should be the sole bearer of responsibilities: “Scholars in management and economics widely share the assumption that business firms focus on profits only, while it is the task of the state system to provide public goods” (Scherer & Palazzo, 2011, p. 899). Indeed, for example, Friedman (1970), who does not recognize any responsibility of corporations beyond the maximization of financial profit, grounds his argument on the fact that corporate executives, by virtue of not being elected through a political process, do not have the same responsibility as civil servants, thus pointing to the inherent responsibilities of States. When arguing that companies should take on responsibilities beyond making profit, scholars have argued that companies should take on state-like roles, especially where the state system fails (Scherer & Palazzo, 2011, p. 900). Indeed, PCSR argues that the requirement to assume the responsibility of balancing stakeholders’ expectations and interests, including by taking into account E&S considerations, originally constitutes a privilege of the State. As such, whether arguments go one way or the other concerning business responsibilities, it points to the same direction in terms of States: States do have responsibilities that would cover E&S matters. This is in line with the importance of States in the philosophical debates on collective persons mentioned above, as well as the conceptual interlinkage between the notion of States and the notion of the public good, with Rousseau’s notion on the general

will, and the more recent recognition of coalitions of States like international intergovernmental organizations as central players in global governance (Schrempf-Stirling, 2018, Zürn, 2018) on E&S issues.

It therefore comes as a surprise that States, as an entity bearing of social and environmental responsibilities, would not be the object of more extensive studies when it comes to the definition of OSER.

Of course, there is an important literature on States responsibility outside of the Management literature in law (e.g., Hu, 2020, Marko Milanović, 2009, Garciandia, 2020) but it does not allow to take on a full social sciences lens, which is the perspective privileged in this PhD, as further justified and detailed below. One has to note there is also a growing focus on States responsibility in international affairs and political science (e.g., Erskine, 2003, Ainley, 2011). However, work on organizational responsibility in international affairs and political science still privilege tackling responsibility through legal analysis, and international relations' lens on States responsibility has also been criticized by important articles as being misdirected and obscured (Erskine, 2008) or too focused on individuals (Ainley, 2008). As such and given the focus of this study in Management as the situated discipline primarily tackling organizational responsibility in concrete settings, the Management literature shortcomings in relation to States responsibility remain relevant for this study and research on organizational responsibility in general.

While the Management literature is historically deeply rooted in studies on private organizations, this is not a complete explanatory factor for shortcomings in relation to States responsibility as the Management literature does also contribute to research on public organizations. Perhaps this reduced academic attention on the actual definition of States responsibility is also linked to the fact that States responsibility appears, in the Management literature, as being somewhat self-evident, with a historical agreement on the fact that the State is dedicated to shaping public goods and should cover their stakeholder's expectations, including E&S expectations. However, State responsibility is far from granted.

Beyond what I have already explained in section 2.1 on the difficulty in defining any organizational responsibility, one example reflecting the specific and crucial difficulty in defining States responsibility is the concept of common but differentiated responsibil-

ity. While international legal order is founded on States' sovereignty, and while formal sovereign equality is recognized by the Charter of the UN, States have also been recognized as requiring differentiated treatment in international economic law given the economic inequalities among them (UN Conference on Trade and Development Conference) and having differentiated responsibilities in international environmental law (UN Conference on the Human Environment, 1972, UN Conference on Environment and Development, 1992). As per the principle of common but differentiated responsibility, the responsibility to protect the environment is deeply interlinked with the right to get financial assistance to eradicate poverty, and both States and international organizations are singled out as agents of this dual goal at the Stockholm Conference: *"Appropriate steps should be taken by States and international organizations with a view to reaching agreement on meeting the possible national and international economic consequences resulting from the application of environmental measures"* (UN Conference on the Human Environment, 1972, principle 11) The Stockholm Declaration also recognizes that developing countries are not able to take the entire burden of both economic development and environmental protection: *"Resources should be made available to preserve and improve the environment, taking into account the circumstances and particular requirements of developing countries and any costs which may emanate from their incorporating environmental Safeguards into their development planning and the need for making available to them, upon their request, additional international technical and financial, assistance for this purpose."* (UN Conference on the Human Environment, 1972, principle 12). Building on the Stockholm Declaration, as analyzed by Bartenstein (2011), the principle of common but differentiated responsibility is formulated at the Rio Conference as follows: *"States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command."* (UN Conference on Environment and Development, 1992, principle 7). This principle recognizes States' responsibility, collective responsibilities and differentiated responsibilities. This principle can be seen as enabling the reunion of developed and developing States

around the same table to tackle the challenge of global coordination on climate change, as it allows to take into account the concern of developing States concerning their economic development. As put by Bartenstein (2011), “*The use of differential treatment is the logical response to the challenge of reconciling environmental protection and economic development.*” (p. 205). This principle is mainly focused on future responsibility to preserve the environment and not the historical responsibility of causing damage to the environment. The concept of responsibility in the principle of common but differentiated responsibility can rather be understood as moral responsibility as opposed to legal responsibility. From that perspective, “*differentiated responsibilities*” is rather equivalent to “*differentiated obligations*” (Bartenstein, 2011, p. 197). Nonetheless, Bartenstein (2011) notes that the agreement does not detail what this common but differentiated responsibility actually means in practice, especially as the proposed reference to financial and technological compensation from developed countries to developing countries has been taken out. As such, although there is a legal recognition that States may have common but differentiated responsibility, the question of the definition of States responsibility remains open, especially in a meta-organizational context like the World Bank, where States both form a lending coalition to which individual States borrow money. Although States are sovereign, Bartenstein (2011) explains that international cooperation taking into account the principle of differentiation could deeply modify our understanding of sovereignty, which would not be the sole cornerstone of States commitments, as it would be “*tempered by equity*” (p. 212). This principle of common but differentiated responsibility requires arbitrage on diverging interests (economic, environmental, social) from an equity perspective, which is particularly complex challenge, hence the fact that it will be negotiated. As put by Bartenstein (2011), “*It is precisely the differential treatment that drains a lot of energy from the negotiators.*” (p. 191). This constant negotiation demonstrates that roles and responsibilities cannot be taken for granted: as stated by Djelic & Sahlin-Andersson (2006): “*The role of states and governments in contemporary processes of governance should not be taken for granted (Rose and Miller 1992; Kohler-Koch 1996; Moran 2002). Rather, it should become the object of serious scholarly scrutiny (e.g. Zürn and Joerges 2005)*” (p. 7).

While it can be surprising that State responsibility would not have been studied in PCSR, this points to the need to reintroduce State responsibility within the domain of Management studies on responsibilities.

Instead of “*forgetting*” about PCSR, as suggested by Rhodes & Fleming (2020), I suggest using PCSR insights on responsibility definition. There is no indication in the PCSR research that suggests that government should not have a political role because corporations are gaining one, although PCSR is constantly pointing to the weakening of States in recent decades. Beyond conservative propositions assuming government failure and in line with Stiglitz’s 1998 speech on “*redefining the role of the State,*” PCSR could be reflecting the dawn of renewed partnerships between governments and the private sector, including renewed interlinkages between their respective responsibilities. The World Bank is situated at a privileged juncture to study renewed arrangements and ambiguities related to States’ role. Indeed, the World Bank’s Board is constituted of States, thus opening the door to focusing on States responsibility when studying the World Bank’s responsibility. However, one also has to note that it has to be noted that the World Bank responsibility should not be equated to States responsibility and the World Bank’s mandate defines the World Bank as apolitical. From that perspective, the World Bank situates itself on a fine line between an apolitical and political role.

To summarize this sub-section on the relevance of the World Bank as a case study in the PCSR agenda, the above research avenues proposed by PCSR and building on PCSR’s gaps seem to both reinforce the interest of this proposed study from an academic perspective and suggest directions to guide the conduct of this research in a way which would be aligned with current academic needs. It not only opens the door to studying public organizations, it also allows us to look at emerging countries institutional environments both represented at the World Bank’s Board and at the level of World Bank clients. The World Bank is also a privileged object to study conflicts between various stakeholders claim beyond the binary approach looking at shareholders vs. non-shareholders perspectives. Further identified research gaps also suggest that this study should pay particular attention to specific stakeholders claims, the mechanisms of compromising, underlying mechanisms and various institutional factors leading to potential compromises and encourages this study to take on a qualitative and longitudinal approach.

While the World Bank is a privileged object to contribute studies on responsibility, including CSR and PCSR gaps, there is a need to better understand the organizational nature of the World Bank before applying the above-described responsibility definitional framework to a World Bank case. CSR and PCSR, because they are traditionally focused on private corporations, do not provide theoretical tools to study the World Bank. In the following section, I argue MOT is a framework that further complements CSR and PCSR to tackle a study on the World Bank.

## **1.3 MOT: defining a framework to study OSER definition context**

The previous section enabled us to understand both the interest of CSR and PCSR work for this study and the relevance of this study in the current CSR and PCSR debate. The study refined our understanding of OSER definition as a negotiating, with particular attention to the fact that background conditions of responsibility negotiations and definitions may be dynamic as opposed to static. This raises the question of the specific conditions in which responsibility is negotiated, i.e., the World Bank, in this case. In order to further characterize the World Bank as the background conditions to the World Bank ESF negotiation on responsibility, this section aims at describing the World Bank as an organization, by using MOT as a relevant complement to CSR for this study's specific case.

This section will focus on defining the organizational context for this case study, thus attempting to define the World Bank as an organization. It will look at the interest and shortcomings of traditional organization theories on the World Bank (1.3.1), to further dive in the fruitfulness of MOT to describe the World Bank (1.3.2.), and how MO paradoxical actorhood is relevant to tackle the question of the World Bank OSER definition (1.3.3.) as well as how the study of OSER definition is relevant for the question of MO actorhood (1.3.4.).

### **1.3.1 Interest and shortcomings of traditional organization theories to study the World Bank**

In order to use this literature review's responsibility definitional framework to analyze definitional shifts and negotiations of OSER, there is a need to complement PCSR with conceptual tools that enable us to dive into the specific organizational characteristics of the World Bank.

While the World Bank is usually referred to as an IGO, the main organizational theories on IGOs appear to provide interesting insights in theorizing IGOs as organizations, but not to fully unpack the specific organizational challenges running through IGOs. This

sub-section will be composed of comments on Principal-Agent Theory (PAT), the Bureaucratic Organization Theory (BOT), March & Simon's bounded rationality model, Sociological Organization Theory (SOT), the governance approach and theorizing of development institutions in anthropology.

### ***Principal-Agent Theory (PAT)***

PAT (Jensen & Meckling, 1976) is based on the model of the public corporation (Ahrne et al., 2016a) and emphasizes the information asymmetry between the organization's secretariat and its shareholders and the resulting autonomy of the organization's secretariat (Hawkins, 2006). PAT does point to the fact that a principal can actually be a set of various conflicting principals (e.g., Nielson & Tierney, 2003, Gutner, 2005) thus complicating organizational coordination, but the theoretical focus of PAT is not to consider paradoxical actorhood at the heart of the organization's structure.

### ***Bureaucratic Organization Theory (BOT)***

BOT is based on the model of public bureaucracies and emphasizes the role of general norms, procedures and regulations in shaping the bureaucratic organization's authority, as well as the difficulty politicians have in controlling the bureaucracy (Ahrne et al., 2016a). It particularly focuses on hierarchical chains of command and control in bureaucracies, and does not focus on the actual complexity of actorhood behind these rules and regulations to maintain order in organizations.

### ***Bounded rationality***

Articles in political science have also used March & Simon (1958)'s bounded rationality model, in particular problem solving under uncertainty, to describe the World Bank.

According to March & Simon (1958), decision-makers often face ambiguity, unpredictability, and incomplete information when making choices. Bounded rationality suggests that individuals make decisions by employing simplified, heuristic-based strategies rather than engaging in exhaustive analysis and rational deliberation.

Ascher (1983) has argued that the problem solving under uncertainty model sheds a fruitful light on IGOs' uncertainty of objectives, thus explaining the World Bank's internal divisions, as well as on the relative power of those who can absorb uncertainty, thus



explaining the World Bank staff's relative power. This article also advances that under this model, problem solving as a continual grappling with enduring problems rather than as a straightforward calculation of optimality. While this article frames March & Simon's model as a theoretical response to an organizational paradox (being the result of an agreement between States and the most formalized organization in the international economic regime), and proves March & Simon's model explanatory power, the theoretical model does not actually address the organizational paradox of being both dependent and autonomous, and resulting structural complexities.

### ***Sociological Organization Theory (SOT)***

SOT's focus on the "*social life*" of bureaucracies. As such, it goes further than PAT and BOT as it does not consider bureaucracy as a totalizing entity but rather describes the internal thickness and complexity of bureaucracy. As put by Weaver (2007) SOT "*enables us to get beyond explanations of when an IGO can deviate from principal demands to explanations of why and how IGO policies and practices diverge*" (p. 498). However, SOT does not focus on the actual actorhood of IGOs, nor internal conflicts at the Board level.

### ***The governance approach***

Kerwer (2013) also problematizes the governance approach, as a research perspective that focuses on interactions among public and private actors located at the European, national, and also subnational levels (Hix, 1998, quoted in Kerwer, 2013). The governance approach is dedicated to studying the integration and coordination of different actors in the decision-making process. From this perspective, it assumes that the European Union (EU) is a complex and multi-level, going further than PAT and BOT. However, scholars adopting the governance approach can be perceived as assuming the inherent ability of intergovernmental organizations (IGOs), notably the EU, to act effectively. Taking this capacity to act for granted, their focus rather lies on the specific challenges associated with coordination within the EU's multi-level system, addressing issues that arise among actors possessing recognized actorhood (Kerwer, 2013).

### ***Approaches in the anthropology of development***

Similarly, in the anthropology of development, development institutions have long been portrayed as homogeneous and totalizing organizations, with well-defined contours (Fresia & Lavigne Delville, 2018). Assuming IGOs or MDBs' relative homogeneity and concentration of power hinders our analytical capacity to unpack the question of their responsibility as organizations. However, recent studies have responded to the sociological call to depict the more fragmented, contradictory, ambiguous reality of development institutions (e.g., Valette et al., 2015, Lavigne Delville, 2017, Fresia & Lavigne Delville, 2018) but not focusing on a specific theoretical lens or on the organizational nature of IGOs.

### ***The need to dismantle the World Bank's perceived homogeneity to tackle the World Bank OSER definition***

Organizational representations conveyed by traditional theorizing of IGOs can be misleading: although they can have a useful theoretical function, they do not support a concrete analysis of the question of responsibility definition within IGOs. How can one analyze the chains of responsibility if the development project is represented like emanating directly and unilaterally from a homogeneous actor? How can one unpack how responsibility is defined beyond saying that E&S challenges should be addressed through cross-organizational partnership and collaboration? More importantly, if the internal tensions structuring the World Bank's power are not well understood it becomes challenging to actually study the World Bank OSER, especially as power and responsibility are so intrinsically linked.

This study posits that MOT is a useful theory to further unpack the organizational nature of the World Bank and therefore constitutes a good complement to PCSR to understand the nature of the organization at hand, the World Bank.

### 1.3.2 MOT as a fruitful conceptual tool to bridge the gap between organizational theories on the World Bank and the study of OSER

MOT departs from assumptions of homogeneity: it conceptualizes IGOs as MOs, that is to say formal organizations that have organizations as their members (Berkowitz & Bor, 2018). MOs generally emerge as a response to the need to coordinate global action to address global problems (Berkowitz & Bor, 2018), in a context where global challenges require rethinking governance systems, which are not currently fit to foster cross-sectoral collective action to provide solutions to these challenges (Berkowitz et al., 2020). Their emergence reflects the rise of “*regulatory capitalism*” (Levi-Faur, 2005) and related transnational governance mechanisms.

#### ***Basic features of MOs***

As organizations, MOs are decided social orders, which means that “*the elements necessary for the continuation or repetition of social interaction are the results of decisions, rather than being the result of common institutions, norms, or status differences*” (Ahrne et al., 2016b, p. 3). These elements include decision-making, membership, hierarchy, rules, monitoring and sanctioning, which entails a more formal organization than networks (Smith-Doerr & Powell, 2005, Kerwer, 2013).

However, the MO is also an association: “*Members have their own authority center in place, which can decide to stay or exit, to contribute or not, and to communicate and agree with other members about the collective goals. Members are thus only partially absorbed into the MO.*” (Berkowitz & Bor, 2018, p. 205).

#### ***MOs’ organizational paradox***

Given its definition and nature, at the heart of MOT lies a crucial organizational paradox: MOs are autonomous organizations composed of organizations that are themselves autonomous (Ahrne et al, 2016b). Symmetrically, the MO members must both belong to and be autonomous from the MO.

This is vastly different from the simpler case i.e. that of basic organizations which are made up of a series of individuals, the difference boiling down, according to MOT, to

the nature of individual and organizational autonomy when considered as members of organizations and MOs respectively: within a given organization individuals lose their autonomy to a certain degree and the decisions taken emanate from a single body which is the organization itself; within a given meta-organization, member organizations still hold on their autonomy, as pointed out by Ahrne et al. (2016a), it would be “*difficult to convince people that something is an organization if it [could not] make some decisions of its own; rather it would, at best, be considered a department of another organization*” (p. 9). As such, MO members are less dependent and more subject to be in competition with the organization itself on some aspects of the organization’s functions. When considering organizations with individuals as their members (traditional organizations), and organizations with organizations as their members (MOs), “*the magnitude of the challenge varies considerably for the two types of actors.*” (Kerwer, 2013, p. 42) and MOs will find it considerably harder to be autonomous actors. Therefore, if membership is relatively cheap for members in MOs (Ahrne & Brunsson, 2008), retaining MO’s autonomy can be challenging. This puts considerable pressure on the MO, which is torn apart between its natural organizational conatus, persisting in its being, on the one hand, and its manifold internal conflicts and relative lack of autonomy on the other hand, which tends to deeply constrain its self-maintenance.

### ***MOs’ decision-making, rules-making, monitoring and sanctioning in light of MOs actorhood paradox***

This organizational peculiarity is reflected in several other characteristics of MOs: because they are composed of several members, each of which retains its autonomy and identity, they constitute “*unlikely allies*”, MOs are “*often plagued with intricate conflicts*” (Berkowitz & Dumez, 2016, p. 151). MOs are therefore under enhanced organizational threat (Berkowitz & Dumez, 2016). This naturally impacts decision-making processes: “*Finding a common ground and deciding on the collective purpose or goals of the MO can therefore become more difficult over time, and may lead to inertia.*” (Berkowitz & Bor, 2018, p. 206). Decision-making in MOs is so difficult that it may be easier to avoid making decisions and taking action: “*Decision-making problems can be avoided, of course, by avoiding decisions. The zone in which decisions are made by the meta-organization can*

*be reduced in order to minimize the damaging effect on member autonomy, but the price exacted is the relevance of the meta-organization.*” (Ahrne et al., 2016a, p. 10).

As such, MOs also have difficulties creating and maintaining hard laws (Ahrne and Brunsson, 2008) and often rely on standards that are built through consensus (Berkowitz & Bor, 2018). For example, as explained by Kerwer (2013), where the EU has rule-making competencies, it privileges “*directives*” over “*regulations*”: while regulations are immediately binding for member states, “*directives*” need to be transposed into national law before they can be enforced. Moreover, the EU does not have rule-making competencies in domains like social policies, and thus relies on best-practice standards on the matter (Eberlein & Kerwer, 2004). However, because decision making and rulemaking is hard, once a rule is decided, MOs also have a tendency to be path-dependent, as reversing previous decisions also takes decision making (Kerwer, 2013). Nonetheless, as soon as MO members find certain decisions to be non-decidable anymore, if a certain decision is locked and cannot be the object of a new decision, MO members may exit, as described by Berkowitz & Grothe-Hammer, 2022, with a study on Japan exit from the International Whaling Commission, interpreted as caused by the non-decidability of whale catch limits in 2018, which in essence constitute loss of actorhood for Japan.

Similar to decision-making and rules-making, effective monitoring to supervise implementation of soft rules, is not easy to put in place in MOs. Even further, putting in place sanctioning systems can be extremely challenging. For example, expelling a member in an MO is more costly than in a traditional organization: it weakens the MO legitimacy and identity and is simply not an option (Kerwer, 2013).

Because of these difficulties, IGOs may appear ineffective and flawed, hence the constant perceived need for substantial reforms, although these reforms do not tackle the structural paradoxical nature of IGOs as MOs and are actually difficult to undertake. As explained by Kerwer (2013) organizational reform in MO is particularly difficult: “*when trying to reform, [MOs] run up against the same challenges of actorhood that burdens their routine actorhood. Thus, MOT suggests that MOs are having difficulties with organizational reform.*” (p. 43).

Despite these challenges, MOs still have influence through reduced decision-making, rules-making, monitoring and sanctioning, depending on the MOs. Furthermore, MOs also act

as platforms of socialization for their members, although this capacity to socialize members may be less effective than for organizations that have individuals as their members (Kerwer, 2013). MOs also typically have indirect effects on non-members, which are often pressed to adopt rules that are similar to MO members (Kerwer, 2013).

MOT actually contributes to pre-existing theories applied to IGOs or MDBs like the World Bank, as it allows for theorizing the organizational structural complexity of actorhood. From a meta-organizational perspective, IGOs' weaknesses are *"not due to specific design flaws but instead are inherent in their construction as meta-organizations"* (Ahrne et al., 2016a, p. 7). As put by Kerwer (2013) on the governance approach, *"whereas multi-level approaches take the action capacity of actors at multiple levels as given and problematize coordination of that action, MOT problematizes the possibility of action as such."* (p. 50). This is why this study deems it useful to apply MOT to the World Bank.

MOT seems particularly fit for the purposes when analyzing decision-making processes in IGOs like the World Bank, especially when it comes to decision-making on the definition of responsibility.

### **1.3.3 Understanding MO actorhood to study the World Bank OSER definition**

Better understanding MO actorhood is deeply relevant to a question on IGOs responsibility negotiations as *"responsibility and actorhood in meta-organizations can be conceived as deeply interconnected"* (Berkowitz et al., 2022, p. 7). As mentioned in this literature review on responsibility, actorhood forms the very substance of responsibility, considering that one can be found responsible to the extent that it can initiate actions (actions leading to damages/breach and/or actions to compensate damages/breach). From this perspective, MOT paves the way for the account of the complex dynamics shaping the definition of responsibility in IGOs and may even uncover new characteristics of OSER. Indeed, for example, actorhood paradoxes described by MOT, i.e., that the MO members are both part of the MO and autonomous organizations, may inherently lead to responsibility paradoxes, which would need to be unpacked through a study of the World Bank's responsibility. In her study, Berkowitz et al. (2020) actually equates collective actorhood

to an attribution of the capacity of collective deliberation and responsibility, thus pointing to the intrinsic link between actorhood and responsibility, which constitutes a key question for MO.

However, as put by Berkowitz & Bor, 2018, MOs' actorhood paradox actually casts doubt on MOs responsibility and accountability towards external stakeholders. As raised by Berkowitz et al. (2022), MOs actorhood paradox entails very specific issues that need to be investigated with MO lens: *"More organization sometimes leads to the concentration of responsibility, sometimes to its dilution (Brunsson et al., 2022). What happens in meta-organization and the layering of organization? How do meta-organizations compare with other forms of interactions among organizations in terms of responsibility concentration or dilution?"* (Berkowitz et al., 2022, p. 7). Given the complex actorhood of MO, Berkowitz et al. (2022) using Carmagnac et al. (2022) points to the possible dilution of responsibility MOs rise may entail: *"In certain settings and under certain conditions, the creation of a meta-organization may dilute or confuse responsibility (Carmagnac et al., 2022). Indeed, the establishing of a meta-organization may create what we could call smokescreen effects – mechanisms to hide from negative actions – which would explain why member organizations, especially firms, so easily create or join meta-organizations."* (Berkowitz et al., 2022, p. 7).

Nonetheless, in order to actually be able to have the capacity to tackle global challenges, MOs have to gain collective actorhood and retain capacity to take decisions.

Building on Owen et al. (2013) and Berkowitz (2018), Berkowitz & Gadille (2022) put the emphasis on forward-looking responsibility and defines responsibility as *"a collective commitment of care for the future,"* that is to say *"taking action that ensures the realization of socially desirable outcomes."* (p. 7). Berkowitz and Gadille (2022) further define responsible actorhood for MO as *"a system of autonomous decision making externally recognized as an actor, and which decisions highlight a care for future generations and a commitment to enacting a sustainable future"* (p. 6). To overcome the obstacle to transformative change towards sustainability, i.e., lack of answerability, path dependency to growth and lack of labor adaptation to sustainability, MO literature theorizes MO responsible actorhood as combining three properties: (i) multi-directional, meta-organizational accountability, as complex ties of accountability between the MO and its members, and

between the MO, members and external publics – this is meant to solve the lack of answerability for decisions (ii) transformative mediated reflexivity, as a continuous process mediated by the MO and consisting in identifying, reflecting upon and integrating external changes as well as impacts on all publics – this is meant to solve the path dependency towards growth and (iii) negotiated professional restructuring, as a deliberative process enabling cluster’s stakeholders to renew and adapt their professional and labor activities to technological or social ruptures, especially as a result of meta-organizational accountability and transformative mediated reflexivity – this is meant to solve labor resistance towards change.

Although this is more of a normative than descriptive framework and does not explicitly encompass both forward-looking and backward-looking responsibility, it is useful to consider responsibility in the specific context of MO and contains elements that are in line with this study’s definitional framework to analyze OSER: dependent on specific background conditions, i.e., in the case of MO, complex arrangements between MOs and its members as well as the external environment, and underscoring the importance of internal negotiations to define responsibility.

Being able to understand the World Bank organizational structure complements the work of Political CSR scholars (Scherer & Palazzo, 2011, Schrempf, 2012), who focus on analyzing how organizational responsibility is defined, but remain focused on the private sector and do not explore international organizations like the World Bank. The meta-organizational approach can open the black box of IGOs to consider their relational, processual and dynamic dimensions and thus supports a study of the definition of IGOs responsibility.

### **1.3.4 Studying OSER definition to better understand MOs actorhood**

In parallel, empirically studying responsibility definition in MOs may further expand MOT.

Indeed, MOT started providing evidence of the specificity of meta-organizational structures for the establishment of organizational responsibility. MOT enhances the fact that



the creation of an MO paves the way for a new type of collective responsibility: *“the creation of a meta-organization means that a centre for responsibility has been established, thus providing a forum to which complaints and protests can be directed”* (Ahrne & Brunsson, 2005, p. 448). MO scholars mention that accountability in meta-organizational settings may be seen as multi-directional (Bor, 2014, Berkowitz, 2018), thus showing how complex the question of responsibility may be.

However, empirical case studies on MOs do not directly tackle the responsibility of MOs themselves, although scholars started to show how MOs may contribute to addressing the question of collective responsibility. For instance, Berkowitz shows how MOs may increase responsibility by establishing principles, rules and guidelines for their stakeholders (Berkowitz et al., 2017) as well as by constituting a privileged arena of dialogue between MO stakeholders (Berkowitz & Souchaud, 2019), but the focus is more on MO’s stakeholders’ responsibility. While recent articles look at MO responsibility in the context of sustainable development (Berkowitz et al., 2022), they do not tackle the question in the context of specific cases, which is important to further understand MO responsibility, especially in light of the fact that it may be governed by *phronesis*, a practical wisdom in specific circumstances. As such, there is still a need to empirically explore the definition of MOs responsibility.

While exploring the advantages and limits of MOT to apprehend the problem of the definition of responsibility in IGOs like the World Bank, this study therefore also aims at expanding MOT on the question of the definition of MOs responsibility.

## 1.4 Synthesis

The literature review (Chapter 1) sheds light on the research gaps related to OSER definition, demonstrates both the importance and challenges associated with the question of OSER definition and defines the research question as the following: **how is OSER defined?** It further builds on Ricoeur (1994), Schrempf (2012) using Young (2006, 2011) in PCSR, and Neuhäuser (2014) to build a definitional framework to study OSER definition. It shows how the World Bank as a case study is also a good opportunity to study several gaps in the field of CSR and PCSR, in particular in relation to interconnected stakeholders' claims, emerging economies, underlying institutional mechanisms, global value chains, as well as States. With the understanding from PCSR that OSER is an ever-negotiated construct and that there is no negotiation without a defining context, this review also argues that MOT can be used to complement PCSR as it constitutes a useful framework to further analyze the World Bank organizational context.

Chapter 2 will set the methodological conditions of possibility to address the research question, by focusing on the methodology of the case study.



# Chapter 2

## Methodology

*“C’est cela, l’exil, l’étranger, cette inexorable observation de l’existence telle qu’elle est vraiment pendant ces longues heures lucides exceptionnelles dans la trame du temps humain, ou les habitudes du pays précédent vous abandonnent, sans que les autres, les nouvelles, vous aient encore suffisamment abruti. Tous dans ces moments vient s’ajouter à votre immonde détresse pour vous forcer, débile, à discerner les choses, les gens et l’avenir tels qu’ils sont (...). Un autre pays, d’autres gens autour de soi, agités d’une façon un peu bizarre, quelques petites vanités en moins, dissipées, quelque orgueil qui ne trouve plus sa raison, son mensonge, son écho familier, et il n’en faut pas davantage, la tête vous tourne, et le doute vous attire, et l’infini s’ouvre rien que pour vous, un ridicule petit infini et vous tombez dedans ...”<sup>1</sup>*

Voyage au bout de la nuit (1932), Céline

This study provides a qualitative empirical account of OSER negotiations at the World Bank, through an analysis of the case study of the 2012-2016 reform of the World Bank E&S Safeguards. The methodological design, a comprehensive qualitative case study, was conducted through the collection and analysis of World Bank key documents, interviews, public archive of the ESF consultation.

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<sup>1</sup> Translation: *“That’s what exile, a foreign country is, inexorable perception of existence as it really is, during those long lucid hours, exceptional in the flux of human time, when the ways of the old country abandon you, but the new ways haven’t sufficiently stupefied you as yet. At such moments everything adds to your loathsome distress, forcing you in your weakened state to see things, people, and the future as they are (...). A different country, different people carrying on rather strangely, the loss of a few little vanities, of a certain pride that has lost its justification, the lie it’s based on, its familiar echo, no more is needed, your head swims, doubt takes hold of you, the infinite opens up just for you, a ridiculously small infinite, and you fall into it ...”*

In this Chapter, I describe the reasons for making a comprehensive qualitative case study (2.1), my itinerary as a practitioner and researcher and the different types of positions I held vis-à-vis the World Bank (2.2.), as well as the data collection (2.3.) and data analysis (2.4) for the case.

## 2.1 Making a case for the qualitative case study research design

One key step in defining a methodology is defining the methodological approach that will be taken for the study.

In this section, I describe the relevance of comprehensive qualitative research (2.1.1.) as well as case study (2.1.2) to study and build theory on OSER definition based on a concrete setting, before diving into determining the case type (2.1.3) and case boundaries (2.1.4) for this case study.

### 2.1.1 Comprehensive qualitative research

Choosing a qualitative or comprehensive approach is first and foremost dedicated to understanding a phenomenon in context to further build theory about the phenomenon. As put by Hirschman, in his book *Development projects observed* published in 1967, “*immersion in the particular proved, as usual, essential for the catching of anything general*” (p. 2). Indeed, the qualitative method, which seeks to “*describe, decode, translate and otherwise come to terms with the meaning, not the frequency, of certain more or less natural occurring phenomena in the social world*” by treating “*linguistic symbols*” (Van Maanen, 1979, p. 520), is a fruitful approach to analyze the negotiation of responsibility in the context of the discussions surrounding the meaning of the World Bank’s responsibility in various actors’ speeches. The qualitative approach is particularly useful for studying phenomena that are not well understood (e.g., Barley, 1990, Bouchard, 1976, and Eisenhardt, 1989, quoted in Edmondson & Mcmanus, 2007), and useful for theory generation and elaboration on emerging topics (Edmondson & Mcmanus, 2007). Responsibility, and even more so the definition of organizational responsibility analyzed under the lens of social sciences is rather a “*nascent theory,*” as defined by Edmondson & Mc-

manus (2007), as responsibility originally was the reserved domain of law, as described above. This study is a response to the need to study responsibility under new lens and apply emerging constructs on collective responsibility to organizations. Edmondson & Mcmanus (2007) describe nascent theory as typically involving qualitative data collection, which can reunite interviews, observations, secondary data, meant to enable the generation of new constructs, through pattern identification via iterative exploratory content analysis and thematic coding for evidence of constructs, therefore leading to suggestive theory, proposing tentative answers to novel questions. A qualitative study is therefore fruitful to revealing responsibility constructs.

The objective of such qualitative research is to comprehend the way the OSER negotiation process is conducted, to describe and analyze how various actors think, act, interact, as well as the specific interweaving of facts and values (Hlady Rispal, 2002), particularly useful on questions around responsibility which are rife normative postures, debates on stakeholders' values, as well as distinct and conflicting logics. Indeed, qualitative and comprehensive analyses assume the complexity and ambiguity of decisions and events: *"We are confronting a universe marked by tremendous fluidity; it won't and can't stand still. It is a universe where fragmentation, splintering, and disappearance are the mirror images of appearance, emergence, and coalescence. This is a universe where nothing is strictly determined"* (Strauss, 1993, quoted in Corbin & Strauss, 2015, p. 76).

Qualitative research typically functions according to abductive cycles, with back and forth between the literature and the data, in order to progressively deepen how the theory resonates with the field, and how the field resonates with theory. Each back and forth brings a new light onto the studied phenomenon, and progressively builds new grounds of understanding.

### **2.1.2 Relevance of a case study and the ESF as a relevant case for OSER definition**

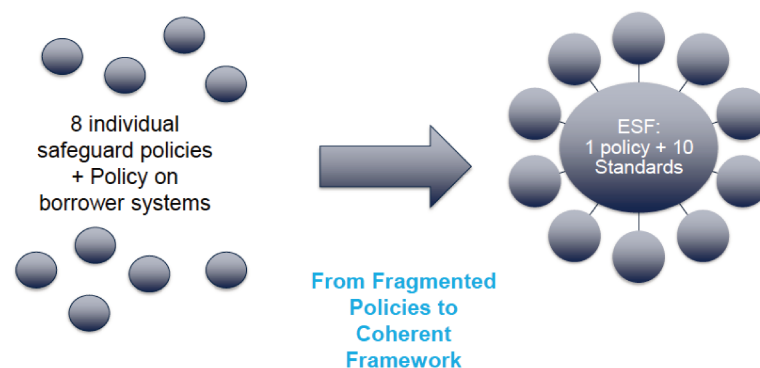
Applying a theme to empirical data naturally leads to using case study as a methodological approach. A case is a social phenomenon that holds a question, an enigma, a paradox, and belongs to a certain class of phenomenon so that case studies may tell us

more than the case itself (Becker, 2014) on a chosen theme, and in this study, the theme of OSER.

Case studies have been extensively described, analyzed and explained by academics (Ragin & Becker, 1992, Gerring, 2004, Passeron & Revel, 2005, Yin, 1984, Dumez, 2015). The case study method is useful to explain a phenomenon, therefore tackling the question of “*how*” something happens, in this study, *how* OSER is defined in Organizations. Compared to history, case studies are more appropriate when it comes to grasping the complexity of social phenomena that fit into a contemporary context (Yin, 1984), especially as it entails different types of contemporary evidence (e.g., interviewing) and therefore seem relevant to study the recent tensions related to OSER definition. As opposed to experiments, case study is a relevant design to focus on events that cannot be controlled, such as a process to define OSER.

The ESF consultation process held in the World Bank as part of the E&S Safeguards Reform, shaped by the 2010 Independent Evaluation Group (IEG) evaluation (World Bank Group Independent Evaluation Group, 2010) and the 2012 Approach Paper (World Bank, 2012), and conducted between 2012 and 2016, appeared to be a privileged phenomenon which was fit for purpose to explore, describe, analyze and explain OSER definition. One of the ESF key goals was to clarify the World Bank’s role and responsibilities. This is embedded in an ambition to further rationalize, legitimize and promote the cost efficiency of the World Bank E&S policies. In particular, there is a perception that the OP/BP generation of Safeguards has emerged in an *ad hoc* manner, and the ESF is the hope to have a streamlined framework (see figure below).

## Reminder: Why are we doing this?



*Source: ESF archive, October 2015 Presentation, CSOs Forum at the 2015 Annual Meetings*

Figure 4: World Bank Presentation on the reasons for the reform of the E&S Safeguards

The idea is also for the World Bank to be cost efficient and focused in the way it manages E&S risks: *“the final point here: it’s very important in this risk-driven world in which we now live that we make sure that we deploy resources where they are required. The Bank has done much lately to strengthen its risk management processes internally, and part of that is to give us the tool to determine how and where we deploy our resources and ensure that projects that require people and resources get them.”* (Mark King, World Bank Chief Officer for E&S standards, Transcript, CSO Forum, Phase 1, April 2014). There is also the need to retain leadership, especially after IFC published its own set of Safeguards in 2006 (the IFC Performance Standards),<sup>2</sup> which took the World Bank by surprise: *“We were surprised to see the 2006 Performance standards pass. They kind of ambushed us. (...) It was a bit of a coup on the IFC side, we didn’t expect it to do something so integrated, so different.”* (Interview, ex-World Bank staff). Building legitimacy particularly passes through extended coverage of issues, harmonization with other pre-existing frameworks, consensus among a wide variety of stakeholders on the resulting policies.

<sup>2</sup> As explained, the IFC was created after the IBRD and IDA as a separate institution within the World Bank Group, but it had been sharing the same set of environmental and social policies until it published the IFC Performance Standards in 2006.



The object of the E&S Safeguards reform are the World Bank's previous E&S policies: Environmental Assessments (OP 4.01), Natural Habitats (OP 4.04), Forests (OP 4.36), Pest Management (OP 4.09), Material Cultural Resources (OP 4.11), Involuntary Resettlements (OP 4.12), Indigenous Populations (OP 4.10), Dam Safety (OP 4.37). The last two Safeguards, Projects Relating to International Waterways (OP 7.50) and Projects in Territories under Dispute (OP 7.60), are not part of the reform program. An OP, which was not part of the initial Safeguards, is however added to the agenda: the policy on the Testing of the Use of the National System for E&S Safeguards (OP 4.00). This policy is more recent than traditional World Bank Safeguards. Created in 2005, this policy, not often used by the World Bank until 2010 (Interview, World Bank staff), allows, under certain conditions, to use at least part of the national frameworks of borrowing countries rather than the World Bank Safeguards when implementing a project.

The ESF consultation process is the largest the World Bank has ever undertaken. It was conducted in 63 countries and mobilized nearly 8,000 participants, bringing together representatives of CSOs, borrowing and non-borrowing states, experts, indigenous populations, other development banks, as well as private sector representatives. It enabled the World Bank to gather a large number of comments, whether through in person discussions, online consultation meetings or written submissions made by organizations during the consultation.

Plans for the new proposed framework indicated the framework would be composed of a policy for World Bank responsibilities and one integrated framework for client responsibilities in order to clarify World Bank and Borrowers' responsibilities: *"there will be an environmental and social policy which outlines the Bank's broad objectives in terms of environmental and social issues, and also describes the roles and responsibilities of the Bank itself in bringing about environmentally and socially sound development with our projects (...) there will be 10 environmental and social standards. These outline in a broad way what we expect from clients, from projects, in terms of environmental and social outcomes."* (Mark King, World Bank Chief Officer for E&S standards, Transcript, CSO Forum, Washington, District of Columbia or DC, Phase 1, April 2014).

As it involved a wide variety of stakeholders and was seen as a turning point in terms of clarification of the World Bank OSER, the ESF consultation is therefore a good case to study the question of OSER.

### 2.1.3 Case type

The ESF consultation belongs to a class of situations where OSER, and more particularly MO OSER, has been negotiated. When it comes to novel themes like the question of OSER definition, Yin (1984) privileges single exploratory cases, which can be of a “*reve- latory*” nature. This case can be viewed as revelatory, as negotiations on sensitive topics are often behind closed doors and not easy to study and thus constitute a “*phenomenon previously inaccessible to scientific investigation*” (Yin, 1984, p. 40). Its function is both exploratory and descriptive. While single case studies have the limitations not to enable statistical generalization that would be applicable to all cases, they allow for analytical generalization (Yin, 1984), i.e., the generalization of a case to theoretical propositions.

The ESF consultation is both a typical and unique case. Development financial institu- tions regularly consult on their E&S norms to update the policies, processes and prac- tices. As such, the World Bank example is not a completely isolated example in terms of OSER’s negotiation and definition, and one may assume that the ways the World Bank negotiation went signals, if not reflect, challenges and opportunities other financial insti- tutions may also face when it comes to defining their own E&S responsibility. This case also reflects negotiations in the context of IGOs as MOs, given that the World Bank is part of the class of MO described by Berkowitz & Dumez (2016), just like other MDBs undertaking similar reform exercises.

Although typical to some extent, the World Bank ESF consultation example is still unique to study OSER as the World Bank is often considered to be the first and “*premier*” development bank, considering the World Bank’s global reach, significant capital and influence from a normative standpoint. Moreover, as mentioned, the consultation done for the ESF was the widest consultation undertaken at the World Bank in general and the widest ever undertaken on financial institutions’ E&S policies. It therefore constitutes a good setting to study the question of OSER’s negotiation in IGOs.

## 2.1.4 Case boundaries

One typical challenge of case studies is to define the case boundaries (Yin, 1984, Dumez, 2015). In order to mitigate the risk of missing the point of comprehensive research, by missing an opportunity to actually study actors thinking, acting and interacting, Dumez (2015) points to the importance of determining a proper unit of analysis. A case is essentially circumscribed in time and space. While assigning these limits may not be that easy, it is still a crucial question as “*each unit of analysis would call for a slightly different research design and data collection strategy.*” (Yin, 1984, p. 30). Defining case studies frontier is perhaps even more difficult in an MOs, first because as IGOs, MOs actions frontiers are “*blurry,*” and their actions are “*multiscalar, pluri-localized and split between different arenas*” (Fresia & Lavigne Delville, 2018, p. 8), and second, because MOs’ organizational identify is essentially paradoxical, as organizations members are also autonomous organizations (Ahrne et al., 2016a). In this study, the case frontiers definition is somewhat facilitated by the ESF consultation temporal and spatial frontiers. If the consultation started in 2012, there is still a need to consider previous milestones leading to the consultation. Although this can be a temporal Pandora box, as every event calls for a contextual explanation, I will set the start of our considerations to the 2010 IEG evaluation of the Safeguards comprising recommendations and leading to World Bank commitments on Safeguards revisions, as this was understood in interviews as the primary milestone for the launch of the consultation process. The ESF was approved in 2016. As this study focuses on the way responsibility was negotiated and defined in the ESF consultation, provided that this research started in 2018, too early to really take stock of the ESF effects on the ground, and given the need to define realistic boundaries for the research exercise, the case study stops there, not delving into practical consequences of the ESF onto projects, although certain interviews did raise the follow up questions on the matter in 2020. Concerning regions and stakeholders involved in the case, I will consider all stakeholders involved in the ESF consultation.

Additionally, considering that the consultation process was institutionally segmented by time and stakeholders, this single case also encompasses various intertwined embedded units of analysis, depending on the phases of the consultation and stakeholders’ groups. For the latter, a wide variety of characteristics can serve as distinction factors between

stakeholders, but I am going to use the way they are distinguished within the consultation, i.e., CSOs, States, and among States I will distinguish between the two types of MO members: Part 1 (non-Borrowers) and Part 2 States (Borrowers). In line with Yin's description of the value of embedded case studies, these various data units are useful to multiply perspectives on OSER negotiation in IGOs, develop renewed understanding of the phenomenon and test the validity of (an) explanatory mechanism(s) against different sub-unit of analysis (Yin, 1984). Especially, it enables us to compare various stakeholders' perspectives in time during the OSER negotiations.

## 2.2 Access to the organization: from *in medias res* research to abductive theorizing

If the typical research itinerary goes from the university to the field, it is possible to have the opposite trajectory, as in my case, given that my entry into the World Bank world can be described as *in media res* experience. *In media res* usually refers to a narrative technique plunging the audience in the middle of the action, at a critical point of the plot rather than at the beginning, thus capturing the attention and creating immediate engagement by presenting an intriguing or dramatic situation that prompts curiosity and raises questions about preceding events. By starting *in medias res*, the audience is initially unaware of the full context or backstory, and the missing information is gradually revealed through flashbacks, dialogues, or subsequent narrative developments. In my case, I arrived in 2018 without much knowledge of the World Bank context and without the intent to conduct a PhD. In the context of the launch of the new ESF, I asked a colleague: “*I have one question about the ESF.*” She responded: “*Only one question? You are lucky!*” I had to re-assemble pieces of this fascinating puzzle to better understand the background context for the different World Bank storylines, including debates surrounding the ESF.

Such an itinerary from the field to the research (as opposed to a field study guided by a pre-established research topic), has different implications from both a theoretical and an empirical perspective (e.g., the question of access, independence, the nature of inductiveness), even if comprehensive research in social science is but an iterative exercise which will necessarily entail back and forth between fields and ideas.

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| <p>In this section, I will narrate my work at the World Bank as an intern and consultant and the implications of this work for this research (2.2.1), the paradox between independence and expertise any research may entail and how this was dealt with in the context of this research (2.2.2), as well as the resulting interlinkage between expertise knowledge and research knowledge (2.2.3).</p> |
|---|

### **2.2.1 Back and forth with the World Bank: facilitated access to the field**

Accessing organizations is not easy and is one of the methodological challenges of case studies. As explained in Fresia & Lavigne Delville (2018), accessing development organizations is particularly difficult. This challenge is even more exacerbated when the topics at hand are considered to be sensitive by all actors involved, and even more so in a Covid-19 context, which led to the closure of borders between France and the US in March 2020, only a few weeks before the date of my second departure for the US.

However, in my case, access hurdles were perhaps less important as my research topic emerged from the field, and not the other way around. I already had a direct access to the field, although in a position that was not allowing me to directly collect the data from my daily work, but that enabled me to have a privileged position to further collect relevant data as a PhD Student.

#### ***Pre-reflexive analysis in medias res: emergence of a research question and a research object***

This direct access in medias res led to a very specific position when it came to the formulation of my research project. As put by Edmondson & Mcmanus (2007 p. 1156), “*field research is created through an iterative learning process,*” in which “*feedback, rethinking, and revising*” are key. My research project organically emerged from the field experience. As such, although pure induction perhaps does not exist, the inductive nature of my research is radical, compared to field experiences which are led by a specific research project. I believe this is a rare opportunity, as most field experiences are a priori motivated by the need to conduct a study on a certain theme. As put by Edmondson & Mcmanus (2007), “*in the messy reality of field research, data collection opportunities may emerge before the researcher has a clear idea about how the data will be used*” (p. 1174). Entering a field without a research project is perhaps the best way to have what Freud calls “*mit gleicher Aufmerksamkeit,*” that is to say the exercise to pay equal attention to different aspects of a phenomena. Indeed, as described by Erikson (1958), free floating attention is meant to avoid intentionally focusing the attention onto each element, but rather be marked by recurrent themes (as further detailed in section 2.4 on data analy-

sis). The conceptual enigma does not stem from beyond, it blooms from the field, in line with Dewey (1926)'s understanding of the role of experience in an inquiry: *“Insofar, we have the earnest of a possibility of human experience, in all its phases, in which ideas and meanings will be prized and will be continuously generated and used. But they will be integral with the course of the experience itself, not imported from the external source of a reality beyond.”* (p. 138).

It would be naïve to presume that any research actually follows steps from research question formulation to literature review, data collection, data analysis, results, discussion in such a fixated manner, and all research includes cyclical iterative experiences, whereby all research phases are mutually refined. However, it is still important to note the specificity of my research as emerging from the field, as it is both an extreme and rare example that illustrates the possibility for a radical sense of inductivity as well as a renewed tell of serendipity in research itineraries.

***From in medias res to constructing the research object: the need to multiply positions to access the organizations***

Researchers in the anthropology of development have emphasized the need to multiply different kinds of positions to approach development organizations (Fresia & Lavigne Delville, 2018).

It is important to narrate the different positions I had as a consultant and a PhD Student as well as the strategies to navigate the ambivalence between the lens of a consultant consisting of expert knowledge, and the lens of a researcher led by wider academic discussions on international organizations, negotiation and responsibility. While these multiple positions were quite advantageous, they were also challenging at times. I will focus on delineating each position I had, each phase of my relationship with the World Bank and itinerary as a PhD Student, and describe the associated methodological and epistemological opportunities and challenges.

This multiplication of positions also reflects the non-linearity of my research: describing my positions within and outside the World Bank will also lead to outlining the different back and forth that guided my itinerary as a researcher. This back and forth has no other name than abduction, and the lively narrative of such abduction may contrast

with academic articles' structure, shaped by retrospective didactic linearity. Narrating my positions as a researcher will also provide the opportunity for an account of how concepts emerged and were progressively refined throughout successive abductive cycles. Below I therefore present the various positions I had to describe both this iterative back and forth between theory and practice, between the literature and the field, as well as epistemological and methodological implications.

### ***Setting the stage: the beginning of a journey between practice and theory***

I did a Master in International Affairs, Organizational Responsibility and Sustainable Development at Paris-Dauphine University in 2018. This Master had two different options: one made for practitioners, with an internship, one made for future researchers, with the need to write a Master thesis. Feeling that each itinerary was insufficient, but both were complementary, I chose to follow both pathways. This meant that I would need to do a Master Thesis while interning full time in an organization. That is how my journey at the World Bank began, as I became an intern at the World Bank, and was also required to write a Master thesis in parallel to the internship. This perhaps set the stage for advancing with two feet throughout my entire PhD journey: one as a practitioner, one as a researcher, and a need to constantly navigate to be truthful to both positions.

### ***Getting to know the World Bank: internship and Master Thesis***

As I started my internship in January 2018, I had not formulated a research project for a Master's thesis yet, but knew the Master's thesis would probably stem from any topic I would find interesting at the World Bank. This was a very inductive experience as I kept opening eyes and ears without a pre-existing focus. My preconceived ideas about the World Bank were limited as I had no close relationship at the World Bank at that point and I had not studied the World Bank as a research object beforehand. I only knew about the World Bank basic information and had studied the Private Public Partnership under different lens, knew the World Bank was promoting Public Private Partnerships with certain investments, and also knew about the fierce critiques of such financial schemes in the academia, hence a light vigilance when it came to some of the World Bank products. I also knew the World Bank mission was fit for purpose in light of my own interests, i.e., working on E&S issues in organizations. My internship was at the Inspection Panel. Although I did not have preconceived ideas about the Inspection

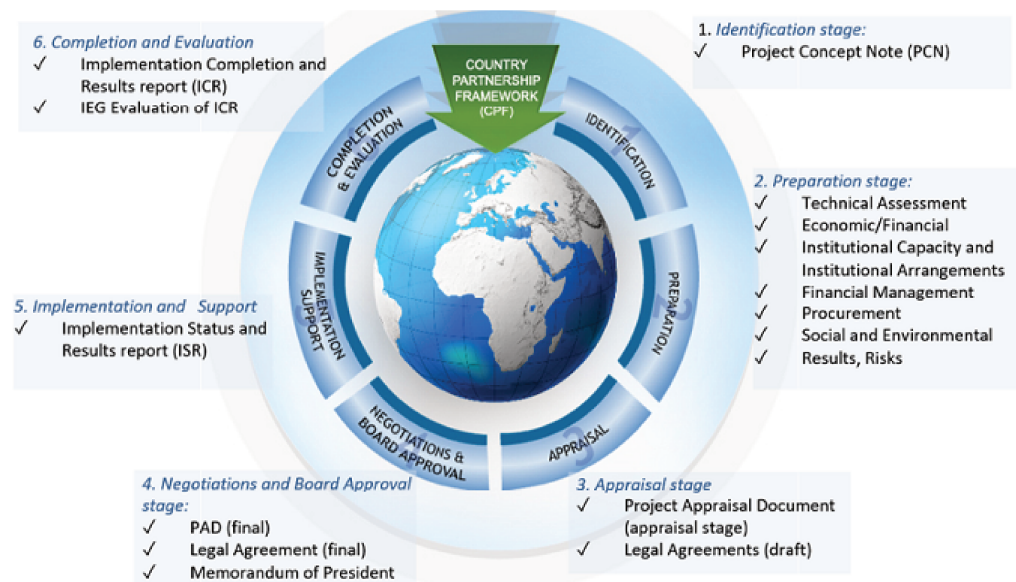


Panel either, I soon understood that everyone I was meeting in Washington DC had pre-existing ideas about it. As such, my work was immediately understood as the object of heated debates I needed to deconstruct to formulate a Master research topic related to the Panel. My first months at the World Bank were marked by an increasing enthusiasm to learn about the ways organizations like the World Bank were operating, but also an exploration of the academic literature on the World Bank. My position at the Inspection Panel was both an advantage and an inconvenience from that perspective. Indeed, on the one hand, the Inspection Panel is independent from the World Bank staff, and does not directly support the project making process. However, Panel investigations do dive into all project stages and related decisions to understand whether the World Bank complied with its own E&S policies. Far from the day-to-day operations, working at the Inspection Panel still allowed for a very detailed understanding of project phases and dilemmas. Based on my interaction with World Bank staff and the questions I was raising to better understand how the World Bank would function, I quickly understood that most World Bank staff only had a partial point of view of the World Bank. Indeed, the World Bank cannot be comprehended at once. It may be the case of all organizations, but it is exacerbated when facing a massive bureaucracy like the World Bank, with more than 18,000 employees and more than 19,000 public documents.<sup>3</sup> From that point of view, one can perceive the World Bank as a world made of a series of sub-microcosms, which do not function independently from one another, but rather relate to one another with partial reciprocal access and understanding. This is in line with the experience of Fresia as a consultant with the UN High Commissioner for Refugees (UNHCR), having access to “*segments,*” “*pieces of reality of a vast nebula*” where one has access to central processes but cannot completely grasp the decision-making process and related impacts (Fresia & Lavigne Delville, 2018, p. 47).

At the Panel, I could however better understand the World Bank projects’ basic stages: identification, preparation, appraisal, negotiation and Board approval, implementation, completion and evaluation.

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<sup>3</sup> This number was obtained by searching for any document with the World Bank as an author on the World Bank document website: <https://documents.worldbank.org/en/publication/documents-reports>.



*Source: World Bank Website*

Figure 5: World Bank Project cycle

Indeed, while the World Bank staff usually intervenes on one aspect of a project, and staff may often completely change between Appraisal and Implementation, an Inspection Panel investigation requires a deep dive into all project documents throughout the whole project period, in order to assess whether risks were assessed and managed as per the World Bank E&S policies both before project approval, at preparation and appraisal, and after approval, during implementation and completion. For example, while working on one case, I contributed to the review of the Project Appraisal Document, Legal agreement, Environmental and Social Impact Assessment (ESIA), as well as all supervision related documentation. These documents are particularly useful to understand the specific context and challenges of a project, and how project challenges and opportunities may evolve throughout the whole project. The processes by which countries' strategies are defined are however less accessible to the Inspection Panel eyes, hence the need I felt to perform follow up interviews on that topic after having left the World Bank. Also, the Inspection Panel does not provide an overview of the World Bank portfolio, as Inspection Panel investigations are triggered by a complaint on a specific project, and the Inspection Panel does not investigate a representative sample of projects. However, the Inspection Panel still allows for a deep dive into World Bank project processing of specific projects that were the object of Inspection Panel complaints.

The Inspection Panel also provides the opportunity to have an overview of different stakeholders intervening on projects or being affected by them. First, the Inspection Panel is one of the rare World Bank related units which receives direct inputs from project-affected people, as one of their main counterparts are complainants. Second, the Inspection Panel reports to the World Bank's Board, not to the President. The Inspection Panel therefore provided me with a deep understanding of Board dynamics, especially when drafting briefs for Board meetings. As part of Board negotiations involving both the Inspection Panel and the World Bank, the Inspection Panel also needs to coordinate with the World Bank senior Management in order to present, to the extent possible, common agreements before the Board. Finally, Inspection Panel investigations entail contributing to interviews of the World Bank staff, spanning from Task Team Leaders to E&S specialists intervening on cases, but also relevant legal staff and managers including Country Managers. As such, one year working at the Inspection Panel as an intern provided me with a fair understanding of World Bank main stakeholders, as well as a glimpse into the World Bank internal dynamics. This perspective was further strengthened when I became a consultant at the Panel.

***Work as a consultant at the World Bank: deepening my understanding of the World Bank, finalizing my Master thesis and emergence of a research project as a PhD student***

Working as a full-time consultant at the Inspection Panel enabled me to further deepen my understanding of the World Bank process and stakeholders for at least two reasons: following up on my previous work, with for example the finalization of an Inspection Panel investigation I had worked on, and participating in new workstreams, which allowed me to better understand the Inspection Panel mandate and governance. Indeed, the Inspection Panel, at that time, was conducting negotiations with the World Bank on a reform of the Inspection Panel. The Inspection Panel mandate was not to be revised but the negotiations included several specific discussion points, which led to discussing the Inspection Panel mission, its role in the organization vis-à-vis other internal units, as well as key elements of the Inspection Panel procedures. This allowed me to deepen my understanding of the organizational structure of the World Bank and its related accountability system. I also was able to witness the World Bank's Board dynamics first-

hand as I was able to listen in Board meetings related to the cases and questions I had worked on. This is a notable opportunity at the World Bank, as Board meetings often happen behind closed doors, and are only accessible by a restricted number of staff at the World Bank.

Having witnessed different stakeholders' dynamics, on both specific cases and organizational reforms, I could not assume that the World Bank was a monolithic homogenous actor. However, my work as a consultant was not the object of my research and I needed to understand how a researcher approaches the World Bank. This was first done by the parallel research journey I was doing. I had been very straightforward with the World Bank staff and Inspection Panel on my research projects. While it was very clear since the beginning that I was not employed at the Inspection Panel with a research mandate, knowing staff working at both the Inspection Panel and the World Bank enabled me to have an easier access to potential interviewees for a research project. Any given result stemming from my research on the World Bank could be assessed against the broad knowledge I had of the organization, and thus further mitigate the risk of having research results that would be disconnected from the organization's reality.

Indeed, while international organizations are not easy to access, World Bank staff can be quite enthusiastic when discussing research projects on the World Bank. First, organizations like the World Bank are typically producing a massive number of documents and research, and World Bank staff are also involved in a wide variety of publications which signals the World Bank's propensity towards self-reflection, if not self-criticism. One notable example is a 2020 publication on the elite capture of foreign aid, published on the World Bank website itself and involving a senior Economist of the World Bank as a co-author (Andersen et al. 2020). Second, World bank staff members often also did a PhD and have a friendly yet ambivalent relationship to research. While some World Bank staff also have a natural practitioner distrust towards the academia and remain vigilant towards the potential disconnection researchers may have with the organization they study, which is symmetrical to the researcher's vigilance I witnessed towards the potential biases practitioners may have when discussing and reflecting onto their organizations, most of the World Bank staff have a good understanding of the academia and of its importance, either as they themselves did a PhD, or further intervening in Universities

to teach classes. All World Bank and Inspection Panel staff I met encouraged me to do a PhD.

They indicated the public resources that were available online in order to conduct research on both institutions. They were also open to discussing my projects and provided extremely useful insights when being interviewed in the context of my PhD. I was therefore able to collect data in the public domain or through interviews I did as a PhD student, and analyze the data with the support of my understanding of World Bank processes and dynamics. This was the most natural position and a good compromise to both have direct access to the World Bank and be able to conduct research on the World Bank.

This clarified most ethical questions: for example, what about the conversations I had in contexts of social events outside of the World Bank, with people I did not work with, who knew about my research focus as a Master and PhD student, but were not formally interviewed by me? What about the statements that were made with the following caveat, drawing both from my position as a researcher and my social capital as a practitioner: *“Interesting, you are doing a research on the World Bank? Maybe I should not tell you this but ...”* As part of the World Bank, I was a consultant, not a PhD Student, and as a PhD Student, I would use the data I gathered in the context of my PhD, not my work as a consultant. I therefore only used public data I got on World Bank and anonymized interviews I conducted as a PhD student as part of this research, although my understanding of the World Bank universe thanks to my work at the World Bank is an instrumental part of the analysis I conducted on public and interview data. Although this position can be quite uncomfortable at times, it is the price to pay for such a privilege access to intertwining practice and research. I am aware other answers can be given to similar multiplication of roles. However, in my case, through my navigation of the data, I attempted to remain truthful to both positions, by respecting the confidentiality of the data gathered as a practitioner and attempting to take some perspective from my work as a practitioner when analyzing data as a researcher.

### ***Interruption of my work at the World Bank and start of my PhD***

As an intern and a consultant, taking some perspective from the expert knowledge of a consultant in order to adopt the lens of a researcher was not easy. The lack of time and the lack of distance from daily organizational urgencies and deadlines does not help ques-

tioning concepts used in the day-to-day operations, and the way day-to-day operations work from an organizational perspective. Practitioners' and researchers' lens involve both distinct perspectives and temporalities.

The discovery of the World Bank as a research field progressively led me to reflect and raise questions about the ESF. This organic development of the research question has the value of leading to a strong fit between the research question and chosen case, in line with Yin's advice to select case studies that are appropriate for the research questions (Yin, 1984), but this emergence of the research question from the field poses the risk that the question's interest is restricted to the case only. Therefore, an extensive literature review was important to better understand how the research question would be part of a wider theoretical debate on the question of organizational responsibility.

The immersion in the field categories and inability or lack of time to take perspective is what I call the "*connection complex*": the fact that the field seems too close. In other words, being immersed in the thickness of the field does not necessarily allow one to take the proper theoretical perspective on the field. Witnesses do not always have the privilege of superior knowledge. Taking perspective vis-à-vis the day-to-day reality requires a theoretical understanding of the debate, systematicity and triangulation of the data.

The interruption of my work at the World Bank was instrumental in further dissociating myself from the World Bank's ethos and episteme as well as deepening my understanding of the academic debates around the World Bank and their implications for organizational studies.

Taking a step back is not an easy process. It has been described by several scholars, especially in the anthropology of development. For example, Scalettaris mentions that assimilating the institutional episteme of UNHCR was fairly easy compared to the process of objectifying and deconstructing this institutional thinking (Scalettaris, 2018). She especially described how the multiplication of positions, especially at the early stages of a career, when one is still at the birth of one's own professional path, leads to both an inability to produce UNHCR institutional discourse and an inability to produce an anthropological critique of UNHCR. This can be seen as a "*grey area*" between research and expertise (Scalettaris, 2018, p. 79). Especially, Scalettaris (2018) details how she

first defended UNHCR policies and categories, and how her first drafts as a researcher were perceived by researchers as policy-like or institutional reports-like texts. In her description of her own responses to such challenges, one sees that she navigated through different categories, including academic categories, by discerning which were relevant, based on her previous experience and self-construction as a researcher.

Similarly, after one year of immersion within World Bank categories, and the start of interviews done with different World Bank stakeholders, I thought the most important step for me was to take theoretical distance, i.e., immersing myself into academic categories. In my view, these two sequential immersions balanced each other out in a mutually beneficial manner. As such, I reviewed articles about the shaping of the World Bank Safeguards (e.g., Gutner, 2005, Weaver, 2007), including internal work of ex-World Bank or Inspection Panel employees (Van Putten, 2014, Cernea & Maldonado, 2018), or CSOs work on the World Bank (e.g., Danaher, 1994, Clark et al., 2003). Mostly, the academic literature was not contradicting what I heard in my interviews at the World Bank, but rather emphasizing certain aspects emphasized by interviewees. For example, in interviews, although World Bank staff did emphasize the importance of the apolitical mandate, they also did mention the ambivalence of such mandate, which was underlined by the academic literature. Similarly, although there was an institutional discourse about the World Bank Safeguards, pointing to their consistency and coherence, there were also public speeches pointing to the *ad hoc* nature of the World Bank Safeguards, which was underlined by the academic literature.

I also dived into academic conceptual literature that was not directly related to the World Bank. After looking at the literature on the World Bank, I also dived into theoretical literature about paradoxes and organizations with the assumption that this literature could perhaps provide key insights into better understanding organizational dilemmas on E&S issues. This allowed me to take a step back from the World Bank as a whole, to allow for a theoretical break from the World Bank before going back to analyzing the World Bank data. This proved to be very useful, as reflecting on concepts that were not originally meant for the World Bank brought new lights onto the World Bank as an object of study. Having been immersed in both the practitioners' and researchers' view about the World Bank, when reflecting on concepts surrounding organizational paradoxes, I

would immediately think about how these concepts were applicable or not to the World Bank which led me to ask myself new questions about the World Bank. For example, the literature on paradoxes led me to question the notion of compromises, even though it is not a notion that is very much enhanced in academic studies on paradoxes, just because reflections on organizational paradoxes combined with background reflections on the World Bank naturally led me to the need to discuss compromises. Particularly, some statements shed a new light on questions at the World Bank. For example, Robertson & Swan (2003) mention that organizing paradoxes can be managed by the production and reproduction of a culture “*favouring high ambiguity, that is, a norm developed at the meta-level which decrees that, at the level of work practice, there should be no norms*” (p. 832). While the World Bank discourse about the ESF immediately pointed to the fact that the new framework made certain clarifications, the World Bank staff seemed rather confused with how this framework actually clarified E&S risk management. The literature on paradoxes management led me to pay a particular attention to the remaining ambiguities of the ESF, and how they may be symptomatic of the need to manage contradictory stakeholders’ views.

To conduct this work of distancing, I was given time through the start of a PhD contract. Time is a neglected yet crucial tool in a research exercise. One very seldomly explicitly talks about the methodological value of time. However, it is perhaps the best cornerstone to articulate one’s reflection on institutional categories I had previously been immersed in through my work at the World Bank.

Taking a step back did not lead me to complete shifts of understanding as I had not stepped into the World Bank as a practitioner assuming that sovereignty, power, politics were objective constructs – especially as my Master and previous school training included courses dedicated to analyzing global financial exchanges through Marxists lens, deconstructing greenwashing exercises, analyzing accounting as a social construct subject to negotiations, or underlining the paradoxes inherent to real life ethical challenges. However, this distancing exercise did lead me to rearticulate the question I wanted to ask as it brought to light the fact that “*responsibility*” was a key issue of the ESF discussions, which I had not identified while working at the World Bank, as most discourses about the ESF were about policy coverage, the need to promote development, policy costs, policy



implementation, which all point to the question of responsibility. Indeed, the non-linear abductive journey progressively structures a research question, an enigma, and the path for research: *“From the point of view of the scientific knowledge, the object designated by the common knowledge is not a hook. (...) Everything will become clearer if we place the object of knowledge in a problematic, in a discursive process of instruction”* (Bachelard, 1949, p. 72).

As I was immersing myself in the academia and distancing myself from the World Bank, another challenge I had was what I call a *“disconnection complex.”* In the way I was analyzing my data, how could I ensure that I was not progressively disconnecting myself from the true stakes of the data? This interrogation is symmetrical to the one that led me to take a step back in the first place, i.e., the fact that the academia rather pointed to the need to take perspective from World Bank institutional categories to avoid biases. These symmetrical interrogations didn't lead me to dismiss all results from the academia or my own work, but rather to have an enhanced epistemological vigilance about the speech of World Bank staff, and potential deltas between World Bank staff discourses and speeches in the academia or my own research, and after two years, an increasing need to go back to the field, to avoid completely disconnecting my analysis from the reality of the World Bank. Indeed, after this theoretical focus was made, there was a need to come back to the field, to reconnect the dots and avoid the theoretical ivory tower.

### ***Work as a consultant at the IFC and finalizing my PhD on the ESF***

My first reconnection to the field was done by conducting additional follow up interviews with World Bank staff. However, to further deepen that connection, I also wanted to further come to Washington DC close to the World Bank, reconnecting myself to the World Bank atmosphere and episteme, in order to further challenge my preliminary results. I first attempted to go back to the field with a part time contract at the Inspection Panel. Although I had the contract, the borders closed and the lockdown was triggered, thus not allowing me to come to Washington DC as expected. Not ready for these kinds of circumstances, I did not work for the Inspection Panel at a distance with this contract. However, I had another opportunity to start working at a distance again in December, at the IFC, the World Bank Group fund dedicated to lending to private organizations. The IFC does not have the same President or policies than the World Bank (which refers as

mentioned to IDA and IBRD): it has a Managing Director reporting to the World Bank President. This was a great opportunity, as having a better understanding of IFC policies, the Performance Standards, was important to better understand the context for the World Bank ESF, which heavily draws from the IFC Performance Standards. Further, part of my work at the IFC was linked to questions related to OSER, in the wake of the *Jam v. IFC* case. Additionally, studying and working on two distinct organizations, with different leadership and policies, led to a more comfortable position concerning the delineation of my different roles as a practitioner and as a researcher. Indeed, my work at the IFC, although it kept me empirically rooted in the World Bank Group, allowed me to maintain a certain distance as well, as my PhD is on the World Bank, not the IFC, although the IFC Performance Standards are a relevant context to understand the development of the World Bank ESF.

This further reconnected me to institutional categories of the World Bank Group, with a renewed epistemological vigilance about these categories, but also allowed me to avoid having to completely disconnect myself from the field. While certain studies on development organizations and field research in development primarily emphasize the importance of distancing oneself from the field (as observed in Scalettaris, 2018) to address methodological challenges, I underline that the subsequent return to the field holds equal significance, in line with similar movements done by researchers multiplying various positions in connection with the field (for example Fresia, 2018). Even returning to the field does not involve gathering data for research purposes, it serves the essential purpose of maintaining a continuous connection between practical experiences and theoretical insights. By advocating for this ongoing engagement with the field, I underscore the value of consistently bridging the gap between real-world practice and the process of theorization. It may be that, ideally, this sequence never ends, and there is a need to keep navigating in parallel and/or in sequence to articulate both theory and practice, although this may involve the uncomfortable need to merge both *“loyalty and decentering”* (Fassin, 2009, quoted by Fresia, 2018, p. 57), pointing to paradoxical injunctions of proximity and distance to cultivate robust research and sound practice.

### 2.2.2 Paradoxes between independence and expertise

Field access, especially in complex and closed organizations like the World Bank, may trigger a paradox between expertise and independence. On the one hand, there is an injunction of proximity, i.e., accessing the field and understanding the weeds of the organization's work. On the other hand, there is an injunction of distance, i.e., remaining relatively distant from the field's organizational culture in order to be able to step back and lead an independent research. There is a need to respect both "*the social intelligence of development aids agents and the intellectual freedom of the researcher.*" (Fassin, 2009, quoted by Fresia, 2018, p. 56). The multiplication of roles has been described by Fresia (2018) as a "*quasi-schizophrenic*" (p. 50) exercise. These paradoxical injunctions, perhaps exacerbated with the multiplication of postures in organizations like the World Bank Group, are also present in simpler types of case studies, where the balance between proximity and distance remains a question open to the specific circumstances of each case. In my case, I was perhaps on the edge, leading to a posture in my research that may less easily fall into a radical denunciation of the World Bank's practice, but I also had the advantage of having an empirical root in the institution and the ability to take perspective from the institution by dissociating myself from the daily routine of the World Bank Group.

As explained above, I both had a connection complex, remaining vigilant about potential biases that would inform my data analysis – through reading, time and systematicity, and a disconnection complex, remaining vigilant to be able to keep a practical understanding of the World Bank as an organization that would not be exclusively informed by theoretical discourse. I argue that combining different positions can be healthy rather than dubious: parallel positions, but also sometimes focusing on only one position in a sequential manner. In this back and forth between the connection and disconnection complex, the multiplication of positions further provides more confidence in each of the positions taken throughout the practice or throughout the research.

### 2.2.3 Interlinkage between expertise and research knowledge

The multiplication of roles and navigation between two positions led me to deepen my understanding of two different types of knowledge: organizational research knowledge and development technical expertise. In reality, often, World Bank staff and academic perspectives do not directly conflict. They are just not formed from the same viewpoints, do not have the same function, thus not leading to the same categories. While the World Bank is looking for actionable categories meant to organize daily work and build organizational legitimacy, scholars are looking for abstract categories meant to structure a long-term understanding of organizations, with a regulative idea of objectivity, although researchers have a situated understanding of reality. While the World Bank does not question certain postulates, academic research aims at unraveling the roots of organizational postulates. Both have a pretention to be valid and influence global discussions on organizations and sustainable development, but it is not exactly neither the same validity nor the same influence. While expert knowledge is legitimated by the practical success of technical advice implementation and aims at being actionable for the case at hand, academic research seeks to meet different validity criteria (e.g., internal validity, external validity, construct validity, see Cronbach & Meehl, 1955, Campbell & Stanley, 2015, Campbell & Cook, 1979), and may have different aims (e.g., generalization, exploration, hypothesis generation, theory development, illustration, evaluation, see Creswell, 2014, Corbin & Strauss, 2015, Smith, 2018) but always endeavors to report and discuss the limitations related to any given research. In the end, as explained by Scalettaris (2018), referring to anthropology in international organizations, international organizations and academic knowledge can be viewed as two parallel streams of discourse with distinct and asymmetrical tools but which sometimes absorb each other.

In this study, within the navigation between different roles, I had to draw from academic knowledge to better define the data I would collect and how I would analyze it in line with academic research goals.

## 2.3 Data collection

This section is dedicated to describing the data collected in the context of the PhD. The below table summarizes the data collected through the research, including main contextual documentation, interviews, and the archive of the consultation.

Table 3: Summary of data collection

| Data Source  | Data  | Collection Method   |
|--|---|---|
| <b>Exploratory Interviews</b>                              | <p>31 interviews (45min-2h), including:</p> <p><i>First set</i></p> <ul style="list-style-type: none"> <li>• 5 World Bank staff involved in the ESF drafting</li> <li>• 1 World Bank staff involved in other consultation process (procurement consultation)</li> <li>• 1 World Bank Task Team Leader</li> <li>• 1 World Bank staff working on human rights</li> <li>• 2 IEG staff</li> <li>• 4 Inspection Panel staff</li> <li>• 2 Ex-World Bank E&amp;S specialists with institutional memory of first Safeguards policies</li> <li>• 1 World Bank’s Board staff working for the US</li> <li>• 2 IFC staff working in the E&amp;S department</li> <li>• 1 IDB staff working in the E&amp;S department</li> <li>• 2 NGO representatives</li> <li>• 2 Academic working on the World Bank</li> </ul> <p><i>Second set</i></p> <ul style="list-style-type: none"> <li>• 1 Ex-World Bank President Advisor</li> <li>• 1 Ex-World Bank staff involved in Country Assistance Strategies</li> <li>• 1 World Bank Country Manager</li> <li>• 2 World Bank E&amp;S specialists</li> <li>• 2 French Agency of Development Staff</li> </ul> | <p>Collected through an interview guide focused on the ESF. The first and second sets involved two similar guides, but the second one also involved more targeted follow up questions and testing of preliminary results with interviewees.</p> |
| <b>Public Archive</b> (see Table 4 below for more details) | <p>282 submissions, 276 meeting summaries, including involving:</p> <ul style="list-style-type: none"> <li>• Borrowers</li> <li>• World Bank’s Board members</li> <li>• CSOs</li> <li>• Private sector</li> <li>• Indigenous peoples</li> <li>• Experts</li> </ul>  | <p>Collected online on the ESF consultation archive website</p>   |

|   |   |  |
|---|---|--|
| <b>World Bank<br/>additional<br/>secondary<br/>data</b> | World Bank mandate: Articles of Agreements for IBRD and IDA; World Bank Safeguards policies: OP/BPs, draft ESF, approved ESF; World Bank oral archive: Former World Bank President including Robert S. McNamara, Ibrahim F.J. Shihata, Peter Woicke, James D. Wolfensohn, A.W. Clausen, Lewis T. Preston, Barber B. Conable, former World Bank presidents' advisors: Olivier Lafourcade, Rainer R. Steckan, and staff involve in E&S policies: Gloria Davis | Collected online, through targeted research focused on the need to understand the World Bank as an organization and the context of Safeguards policies |
|---|---|--|

This section describes in more detail the above data types and collection method, by looking more closely at the collection of interviews (2.3.1.), Archive (2.3.2), additional secondary documentation (2.3.3.), and how professional experience can be viewed as meta data (2.3.4.).

### 2.3.1 Exploratory interviews

I conducted thirty-one exploratory semi-structured interviews (between 45minutes and 2h, on average one hour) on the ESF, with different types of stakeholders having worked and/or working on the World Bank, most of them specifically on the World Bank Safeguards, including stakeholders inside and outside the World Bank itself. During those interviews, interviewees were themselves contextualizing the ESF and describing the World Bank organizational nature and environment, allowing me to better understand the case context.

My interviews included two series: one to understand the context, process and outcome of the ESF negotiation, the other to ask follow-up questions and test preliminary results. The full list of interviewees is meant to span a wide series of relevant stakeholders, including World Bank staff representatives, Accountability Mechanism representatives, other MDBs representatives, World Bank's Board representatives, CSOs representatives, and academic representatives (see Table 3).

Although I had the precious opportunity to interview all these relevant stakeholders, it was challenging to find a balance between different types of stakeholders interviewed, depending on the different types of access one is given to conduct interviews. Indeed,

World Bank staff are more represented than other parties and I did not get the chance to interview some key stakeholders, such as Part 2 Chairs or World Bank clients, although I had the opportunity to hear about their positions as they were understood by other stakeholders and to understand their viewpoint through my work.

However, as exploratory material, these interviews gave me access to a wide range of stakeholders and their representations of the World Bank ESF and related stakes. These interviews were further completed by my main data source: the archive of the World Bank ESF consultation, including submissions from Part 2, World Bank clients and CSOs.

### ***Anonymity and sensitivity***

As explained in Corbin & Strauss (2015), knowledge can be seen as “*derived through interactions*” (p. 88) and it is important to acknowledge the role interviewees play in the research process and treat any data provided by interviewees with value, dignity, respect and confidentiality. To preserve the anonymity of these interviewees, I will only refer to them as interviewees.

Additionally, considering the topic of E&S responsibilities in MDBs was characterized in almost all interviews as “*highly sensitive,*” most interviews were not recorded, in order to give interviewees the possibility to speak openly on the matter. Not recording interviews, and putting on paper what is heard after the interview has passed, on the basis of detailed notes taken during the interview, especially in English which is not my native language, is extremely costly. This leads to transcripts that are likely to be more partial than transcripts done based on recordings. However, it also has advantages that cannot be neglected in terms of opening the speech for more truthful and less institutional views. As I was starting my data collection, one event particularly convinced me of the benefits of non-recorded interviews despite the cost: another PhD student was also conducting interviews with World Bank staff on a distinct but similar topic. He was reaching out to some World Bank staff I knew from various places and insisting on conducting recorded interviews, trusting that World Bank staff would trust sociological anonymization practices. I discussed this with one interviewee, who told me: “*this is a shame, I would rather not be recorded, and he insisted, I will have to communicate the usual institutional discourse, which is less interesting for him as a researcher.*” Although this perception can be nuanced, and perhaps this person ultimately forgot about the

recording during the interview with this PhD student, most of the interviews I had seemed to confirm that information obtained through non-recorded interviews included substance that were not in recorded interviews. The convenience of the absence of records perhaps reveals the climate and atmosphere of the World Bank and the particular ESF negotiations, both the object of public negotiations as a tip of the iceberg, and the object of a wide series of closed-door meetings below the surface, against a background of heavy bureaucratic and hierarchical processes and pressures. The need to avoid recording interviewees was also increased by my specific position in the organization: my work at the Inspection Panel in 2018 and my exploratory data collection before the start of my PhD contract were two completely distinct exercises, but not recording any interviews was also easier to have PhD data in a context where there is general vigilance about Inspection Panel staff at the World Bank, given that the Inspection Panel represents the inspection.

### *Guiding the interviews*

The interviews were really focused on understanding the ESF context, process and results – and were not directly focused on the question of responsibility, as the research object was progressively constructed via these interviews. I had a set of typical questions I would ask interviewees, and adapted the questions to the interviewee and the progressive evolution of my research question. Crafting research questions during semi-structured interviews is a delicate balancing act. On the one hand, the interviewer must remain open to the interviewee's views and allow them to steer the conversation in unexpected directions. On the other hand, the interviewer must ask questions that are targeted enough so that related answers would shed interesting light on the topic at hand.

My interview guide would include questions like:

- The history of the World Bank Safeguards.
  - How would you describe the emergence of Safeguards within the World Bank?
  - I heard that Safeguards were *ad hoc* policies during the launch of the ESF: do you feel the same way?
- ESF process.



- How would you describe the ESF consultation process? Was it a fair process according to you?
- What were the most controversial points of the ESF according to you? Who had what argument in these controversies?
- The ESF outcome.
  - What do you think are the main challenges and the main benefits of the ESF?
  - What do you think about the ESF flexibility? What is the role of judgment-based decision making in the organization?
- What is the difference between the World Bank and a commercial bank according to you?
- What is the role of politics within the World Bank according to you?
- Do you think that the World Bank is overall a development institution? What do you think development is?

I would also typically ask whether the interviewee wished to emphasize anything that I did not cover, whether I could follow up with specific questions and whether I could be put in contact with anyone the interviewee thought was relevant on the subject.

As mentioned, I further conducted additional interviews on the question of responsibility to ask follow-up targeted questions and test my preliminary result with the World Bank. This would consist in first asking additional follow up questions and other open questions, and then revealing my preliminary results to know what World Bank staff would think about these preliminary results.

### ***Interview with experts***

Scholars have widely studied expert interviews as a specific type of interview (Döringer, 2021), with somewhat distinct epistemological nature and challenges. Experts are defined as persons who are responsible for the development, implementation, or control of a solution, or persons who have privileged access to people or decision-making processes (Meuser and Nagel, 1991, quoted by Bogner et al., 2009). Exploratory expert interviews are recognized as useful to gain knowledge and orientation on a new topic, to structure

the researcher's understanding of the field and co-construct my research question. Particularly, Bogner et al. (2009) explain that "*conducting expert interviews can serve to shorten time-consuming data gathering processes, particularly if the experts are seen as "crystallization points" for practical insider knowledge and are interviewed as surrogates for a wider circle of players*" (p. 2).

However, interviewing experts also entails specific methodological challenges. The first important question is: what is the ultimate epistemological nature of the expert interview? Indeed, "*truth speaks to power*" (Bogner et al., 2009, p. 3): expert knowledge is certainly epistemologically powerful, and the tool of power as expert knowledge constitutes "*a necessary basis and ideological preformation of institutional political decisions*" (Bogner et al., 2009, p. 4). Expert knowledge needs to be understood as a social construct: although experts are epistemologically imperialistic by nature, expert knowledge is also socially constructed, influenced by different spheres, including knowledge "*acquired beyond and independent of the scientific-professional spheres*" (Meuser and Nagel, 1991, quoted by Bogner et al., 2009, p. 26), such as political convictions or personal life experience as a private person. There is a need to find the right and nuanced balance between expert knowledge as "*objectivity*" and expert knowledge as a signal of complex social organizational and private constructions.

A second related question may be: what is my role vis-à-vis the expert? My experience of expert interviews is one where experts would not only provide me with answers to my questions, thus deepening my understanding of the ESF stakes, but also insights into my research question, methodology and results. While these insights were helpful, as a researcher, they can be unsettling, in terms of conducting the study and analysis, as they can be perceived as a pressure to comply with experts' requests, especially on the basis that they are knowledgeable experts. As put by Obelene (2009), there is an evident bargain to conducting interviews with experts. The perceived need to appear competent to avoid exhaustive basic explanations and receive relevant answers, but also to build trust in such a way that the interviewee may go beyond usual institutional communication, is perhaps exacerbated with experts. For example, when experts would tell me that they had never approached the topic under this light, or that these conversations were very interesting for them as well, it felt like the interview process was particularly successful.

This may entail some cost: the extent to which the researcher is trying to please the interviewee to have this sense of success, and potential biases that this may introduce to the conversation, is not easy to evaluate. However, being able to demonstrate competence, especially building on my work and understanding of the World Bank episteme, was mostly beneficial to the conversations I had with interviewees. This is in line with Pfadenhauer (2009)'s analysis that becoming a quasi-experts is a central constitutive element of successful interviews with experts. However, when presenting my preliminary results to experts, not all agreed with some of my preliminary findings. In particular, when I was pointing to the relative ambiguity of roles and responsibility of the World Bank vis-à-vis clients, some would respond that the sharing of responsibility is on the contrary quite clear (with World Bank as the supervising entity and clients as the implementing entity). Although this would be quite unsettling, this offered me the opportunity to both question my findings and understand the complexity of perceptions regarding the World Bank responsibility (given other interviewees would rather tell me that roles and responsibility were indeed deeply ambiguous despite the distinction between supervision and implementation).

These interviews were a cornerstone to setting the stage for my understanding of the context surrounding the World Bank ESF, as well as key processual phases of the ESF, and perception of the result. These interviews also shed light on how and what to use in the public archive dedicated to the ESF.

### **2.3.2 Archive**

The World Bank archive, summary of comments and responses to comments were structured and led by the World Bank. On the World Bank side, the governance of the ESF consultation and negotiation was shared between three Vice-Presidents (Operations Policy and Country Services or OPCS, Legal Department and External Relations). The main World Bank figures of the reform are Kyle Peters (Vice-President of OPCS, then transitioning to Hartwig Schafer), Paul Bermingham (Director of OPCS), Sri Indrawati (Managing Director at the World Bank), Stefan Koeberle (Director for Operations Risk Management), and the core joint team, formed by staff from OPCS and the Legal Department, included Charles di Leva and Mark King, with interventions from key people who

were not there throughout all the phases, like Stephen Lintner, Senior Advisor at OPCS, or Motoko Aizawa, who had worked on the IFC Performance Standards. Some key staff left the World Bank during the ESF development, perhaps indicating the difficulty in pushing the agenda through, and the divergence of opinions on the agenda (whether to align with IFC, whether to have a short and concise principle-based framework or a more detailed framework, as well as key thematic divergence). The World Bank also appealed to facilitators, such as Richard Burrett (from the University of Cambridge Programme for Sustainability Leadership). The World Bank established working groups for different parts of the framework: *“one for the policy, one for the vision statement and one for the procedures that will eventually have to be drafted”* (CSOs Forum, March 2015, Washington DC). These working groups included a total of about fifty people, including members of the World Bank staff from OPCS, Global Practices, and the legal department. On new topics, especially social topics, working groups could include between 10 and 15 people (CSOs Forum, March 2015, Washington DC). If Mark King asserted that the working groups also included organs of the IFC (CSOs Forum, March 2015, Washington DC), I have not been able to confirm that statement, as some interviewees also mentioned the lack of coordination between IFC performance standards specialists and Bank Safeguards specialists during the E&S Safeguards reform (Interview, World Bank and IFC staff).

The World Bank created a dedicated website to disseminate information about the consultation on its new E&S policies, which has been kept as an archive in the public domain (World Bank, Consultation Archive website). This site includes the documents framing the consultation (the IEG Safeguards Study, the Approach Paper), links to written reports and comments submitted to the World Bank by various stakeholders during the consultation, as well as meeting summaries of the perspectives heard by the World Bank during the consultation. Each consultation phase was summarized through briefings from World Bank Staff to the World Bank’s Board of Directors, who commented and approved the publication of drafts associated with each phase.

Each written submission and consultation meeting summary can be organized by consultation phase and consultation stakeholders. The table below triages the archive based on the different stakeholders and phases of the consultation, and this section further provides details on the stakeholders and phases.

Table 4: Summary of meetings and submissions by phase and stakeholders

|  | <b>Phase 1</b>                     | <b>Phase 2</b>                       | <b>Phase 3</b>                     |
|--|------------------------------------|--------------------------------------|------------------------------------|
| <b>MS: meeting (including online)</b>                  | 29 (0 online)                      | 22 (0 online)                        | 34 (3 online)                      |
| <b>CSOs (including indigenous peoples): meetings</b>   | 23                                 | 31                                   | 1                                  |
| <b>CSOs: submissions</b>                               | 54                                 | 105                                  | 80                                 |
| <b>Governments: meeting</b>                            | 22 in 21 countries (2 in China)    | 32 in 31 countries (2 in Peru)       | 29 in 28 countries (2 in China)    |
| <b>Submission from governments or Board members</b>    | 1                                  | 16                                   | 8                                  |
| <b>Private sector and consultants: meeting</b>         | 6                                  | 3                                    | 0                                  |
| <b>Private sector and consultants: submissions</b>     | 0                                  | 8                                    | 3                                  |
| <b>Development Finance Institution (DFI): meetings</b> | 6                                  | 6                                    | 2                                  |
| <b>IGO (except DFI): meetings</b>                      | 0                                  | 2                                    | 0                                  |
| <b>IGO (except DFI): submissions</b>                   | 1                                  | 6                                    | 4                                  |
| <b>Experts: meetings</b>                               | 7                                  | 7                                    | 5                                  |
| <b>Panel: submissions</b>                              | 1                                  | 0                                    | 1                                  |
| <b>General informational meeting with updates</b>      | 2                                  | 1                                    | 4                                  |
| <b>Summary of submissions and meetings</b>             | <b>57 submissions, 95 meetings</b> | <b>135 submissions, 107 meetings</b> | <b>96 submissions, 75 meetings</b> |

**Phases.** After the IEG evaluation in 2010, which recommended that the World Bank review its E&S policies, the World Bank released an Approach Paper for the ESF consultation in 2012, which envisioned a three-phase process for the ESF consultation.

The first phase (October 2012 – April 2014) was meant to be dedicated to an internal study of good practices in terms of E&S standards, the launch a consultation with governments, CSOs and experts, and the production of a first draft. During the first phase, the

World Bank received 57 submissions and carried out 92 consultation meetings. This phase ended with a meeting with the Committee on Development and Effectiveness (CODE) and the development of a first draft (May 2013 - July 2014).

The second phase (August 2014 – March 2015) was launched as the Executive CODE approved the first draft of the new ESF. During this phase, the World Bank received 135 submissions, and held 107 consultation meetings to receive comments on the first draft. This phase also ended with a CODE meeting and the development of a second draft (March 2015 – June 2015).

During the third phase (August 2015 - March 2016), the second draft of the new ESF was the object of the consultation and the World Bank received 96 position papers and held 75 consultation meetings.

In practice, the phases generally corresponded to what they were meant to be, with a first draft between phases 1 and 2, and a second draft between phases 2 and 3. However, the reform of the World Bank E&S Safeguards did not last two years, but four. This longer duration is interpreted as the result of a fragmented organizational process and a conflictual consultation, which was seen as a laborious task for World Bank Management and staff (Interviews, ex-staff of the IFC and the World Bank, World Bank staff who participated in the organization of the consultation). As such, the ESF consultation timeline rather corresponds to the below Figure.



Source: 2010 IEG Evaluation and ESF archives

Figure 6: E&S Safeguards reform process

**Stakeholders.** The specific meetings, or sessions, which each lasted between a few hours and two days, were organized either to target specific stakeholders (for example meetings dedicated to States or meetings dedicated to CSOs or even meetings dedicated to indigenous populations) or to bring together several stakeholders at the same time. When designing stakeholders meeting, the idea was to be as diverse as possible: “I just

*want you to get a sense of how diverse the locations were. There were consultations in South Asia, in East Asia, Sub-Saharan Africa, the Middle East, Latin America and the Caribbean. There were consultations in Europe and Central Asia and Japan and consultations in North America. We tried to have them in diverse locations, diverse profiles, with a variety of a participants.”* (Transcript: Statement by Stephen Lintner, World Bank Senior Technical Adviser on E&S issues, CSOs Forum, April 2013).

When looking at the participation of stakeholders throughout the phases (see Table 4), one can note that there was wide participation throughout.

This particularly involved CSOs. The so-called “*Multi-Stakeholders*” (hereby called MS) meetings were a channel where CSOs were particularly vocal, even though they were meant to represent several and different types of stakeholders. Governments were also very vocal (both as clients and Board Executive Directors), even though they provided less submissions, some of the submissions were done directly by World Bank’s Board Executive Directors, and were therefore particularly taken into account, as the team was ultimately reporting to the Board on the ESF consultation. A less significant but still notable participation represented the private sector and consultants (who can be employed by the Government in the context of projects funded by the World Bank, for example to conduct ESIAAs), as well as Development Partners. Finally, the Inspection Panel submitted two official position statements, during Phase 1 and Phase 3. The Figure below gives a simple visual summary of key stakeholders present during the consultation and the following paragraphs describe the different stakeholders at the table in more detail.

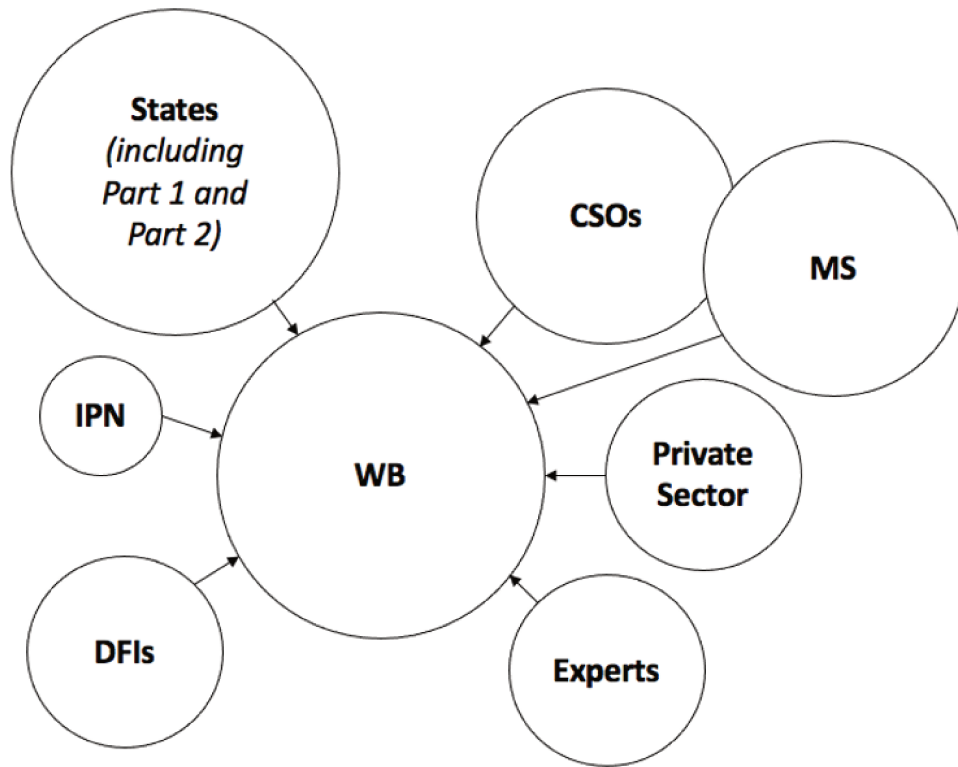


Figure 7: Summary of ESF consultation stakeholders as per ESF archive summary and submissions

On the CSOs side, the number of organizations brought together is unprecedented. In addition to organizations traditionally focused on development banking, including Bank Information Center, Center for International Environmental Law (CIEL), Accountability Counsel, more general organizations have joined the movement, including Transparency International, Amnesty International, the Forest Peoples Program. As Schettler (2020) explains, these organizations have a significant influencing role, attracting support from a large number of smaller organizations through their engagement. It should therefore be noted that the CSOs participating in the consultation were not only Washington DC based international CSOs, but also local CSOs, including indigenous peoples' organizations. Both international and more local organizations maintained the pressure on the ESF negotiation during all three phases, although the second phase provided an opportunity to have more meetings dedicated to CSOs. The meetings were held in several States, and thus involving actors from different regions. Of course, it is always possible to do a more granular analysis of each of these stakeholder groups. For example, CSOs as currently defined within this analysis involve various types of CSOs, including labor unions, and CSOs who are more or less close from Universities, as well as submissions from Aca-



demics, or from ex-employee of the World Bank, like, for example, Michael Cernea, who is at the origin of several World Bank social policies. However, the archive was mainly organized following the distinction between CSOs, Development Partners, States, the Private Sector, and we will follow the same logic in this study's characterization of the data.

Regarding implementing agencies, the private sector, consultants, participation was less significant, but still noticeable, especially through submissions during Phase 2. These included a letter signed by 22 different investors, but also sector specific communications, such as a submission from corporations in the telecommunication sector (e.g., Orange, Nokia, Telefonica, Vodafone), and a submission from the transport sector submitted by TRL Limited. The World Bank also had experts focus groups on what was called "*emerging issues*," that is to say, long-standing issues that were emerging as potential issues to be included in the ESF. The composition of experts was based on nominations from external stakeholders and the World Bank, and selection was made by the World Bank: "*what we did is to sit down, look at the long list and to pick names, considering the need for balance in the room—so both a mix of theoretical approaches versus practice approaches, a mix of gender, a mix of regional representations, a mix of different backgrounds.*" (Motoko Aizawa, CSOs Forum, Transcript, Phase 1, April 2013).

The participation of other Development Finance Institutions (DFIs) is minor on the face of the public archive, but, given the ongoing coordination among DFIs on several workstreams and the fact that this topic must have been carefully followed by DFIs for the ESF was a precedent for the DFIs world on Safeguards, it is likely DFIs privileged closed door meetings with the World Bank team that were not counted as being part of the consultation, and not referred to in the public archive.

The consultation involved meetings with at least fifty States. State representatives were in a privileged position to have access both to information provided by the World Bank and by those who represented States on the World Bank's Board of Directors, which would take ultimate decisions on the final ESF. When States were consulted, it did not necessarily involve the same government departments. For example, the Government meeting in Pretoria in February 2013 was held with the Department of Public Enterprises (DPE) and the Department of Environmental Affairs (DEA). The World Bank was also asked

in that meeting to engage “with other policy departments, on Human Settlements as well as the new ministries on Gender and Youth, and Labor, and the Ministry of Energy and Mining.” – the need to strike a balance between the available resources and fair consultation with as many stakeholders as possible is a recurring comment from World Bank staff having worked on the consultation. Given the States are such key constituencies for the World Bank, representing the World Bank’s Board and the World Bank’s clients, this triggered concern from other stakeholders: “Civil Society and Indigenous Peoples representatives are concerned that their comments will not be taken as seriously and/or with the same consideration as those of the government representatives.” (Consultation Meeting, MS, Guatemala, Phase 1, April 2013). At the Board level, “Part 1,” non-Borrowing members, and “Part 2,” Borrowing members, have very different stakes in the debate. The Inspection Panel submissions, even though they constitute two inputs from one unit, were certainly impactful, given the way CSOs follow Inspection Panel work and the fact that the Inspection Panel reports to the Board, and has easier access to Board representatives.

***These collected meeting summaries require methodological vigilance.*** First, the categorization of a meeting as CSOs or MS can be debated. It was discussed during the consultation and the categorization remained ambiguous (some documents indicating that meetings where only CSOs had participated were categorized as MS meetings on the World Bank Consultation Archive website). Similarly, some Government meetings actually included CSOs and some CSO meetings seem to include organizations that are at least very close to the governments.

Furthermore, while the submissions were written by the author of the comments, the summaries were written by the staff of the World Bank, not the authors of the comments made during the consultation. Far from being transcripts of meetings (except for two forums to close phase 1 and phase 2 in Washington DC and as part of the Annual Meetings during phase 3), each summary is 2 to 15 pages long, and is accompanied by a list of participants, which indicates the name of each participant and the organization each represents. However, meeting summaries are governed by the Chatham House Rules, i.e., the information can be made public but can be attributed, thus making it impossible to know exactly which participant said what during the meetings and to ascertain if

certain participants had greater dominance in meetings. It also has to be noted that these summaries were criticized by some CSOs: *“We have had the experience in several consultations where people have raised very specific issues, particularly around human rights, that have not been captured in the minutes. We have asked for the edits, and in only some of those cases have those edits been adopted”* (Statement from Jessica Evans from Human Rights Watch, CSOs Forum, Phase 1). On this specific point, the World Bank provided its response by acknowledging the comment and mentioning this will be reviewed in more detail: *“I think it is good to get this feedback about the minutes and about the recording. Since elements of the team just came back, we struggled to put a lot of stuff on the web in the last few days, in the last minute. So we need to do that. But I think it is a very important point that we need to take on board about—I mean, if you feel you said something and you do not feel we accurately put it on the web, then we have a problem. So I think we need to address that. I will say that just because we put it on the web does not mean we agree with it, but if you say it in the way and you look it, then I think it should be properly reflected on that. So let us go back and take a look at that because that is of concern, and I think it is a legitimate point.”* (Statement from Kyle Peters, CSOs Forum, Phase 1).

In general, it should be noted that the ESF consultation was a World Bank led discussion, which led to many criticisms regarding asymmetry of information, timeliness of the provision of consultation material, the timing of the consultation themselves, the possibility of in-depth discussion, consultation accessibility (e.g., translation, places where the sessions took place, physical accessibility of the meeting). These challenges were mentioned by interviewees for this study, stating that the choice for a place and the timing of the consultation session was highly dilemmatic (Interview, World Bank staff), for example whether to choose one region or the other to conduct a consultation in one country have different implications in terms of access for different stakeholders in this country. Houghton also argues that certain dissenting voices were not heard as a result of these constraints, especially voices that would not be aligned with a neoliberal ideology or voices from small States, although the deliberation created an impression of taking all voices seriously (Houghton, 2019). Because of all the criticism related to the process, in 2013, the World Bank Presentation at the CSOs forum notes that a few parties believed there should not be any consultation - *“World Bank Go Home.”* However, it should be

noted that CSOs criticism during the ESF consultation is rather focused on moderate criticism (questioning how the World Bank would intervene), and often point to the need for World Bank interventions, rather than radical criticism (questioning that the World Bank would intervene). CSOs mostly embraced the consultation throughout by actively participating in them as proposed by the World Bank. Nonetheless, these elements of consultation structuration are key to keep in mind when collecting and analyzing such data, and signal the need to enable further triangulation of information with additional collection of data. For example, documents submitted on behalf of signatory organizations constitute written comments on the framework (ranging from approximately 1 to 70 pages), which are relatively longer than meeting summaries and clearer ways to identify stakeholders' viewpoints. Board meetings deliberation, on the other hand, were not archived on the World Bank's consultation site. It should be noted that other key bilateral meetings may not be accessible to this analysis: for example, the World Bank may have had several bilateral meetings with its Clients, or even Contractors, that were not archived publicly. This limit is to be kept in mind when considering the data collected, and the archive was complemented by Schettler (2020) description of the CSOs movement and counter mobilization, through the description of the intervention of leakages of key documentation, strategic release of reports and press articles on the World Bank, response from the World Bank and bilateral meetings between CSOs and Governments as reported by CSOs to Schettler in his study.

### **2.3.3 World Bank additional secondary documentation**

In addition to interviews and public archives, additional secondary documentation was also collected, and can be distinguished by two types of data: contextual documentation and floating secondary data.

#### ***Contextual documentation.***

Several important documents were key to understanding the World Bank as an organization as well as the context of the ESF consultation. Beyond the documents framing the ESF process (IEG evaluation and Approach paper mentioned above), I also read the Articles of Agreements of IBRD/IDA, policies and procedures related to different products of the World Bank (investment project financing, to which Safeguards apply,

as well as development policy financing and program for results, to which Safeguards don't apply) as well as the previous Safeguards E&S policies from the 2000s. The below Table summarizes the World Bank E&S policies throughout the years. While I did not systemically collect Operational Manual Statement (OMS) and Operational Policy Note (OPN) (from the 1970s and 1980s) or Operational Directives (OD) (from the 1990s), I did look at how policies evolved throughout the time and focus my reading on the 2000s Safeguards Policies. These Safeguards Policies were also used as part of my work at the Inspection Panel, which helped me better understand how to collect and read World Bank E&S policies and procedures.

Table 5: World Bank E&S policies considered in this study

| Initial E&S Policies and Guidelines 1970-1980s  | Operational Directives (1990s)                | Safeguard Policies 2000s                                       |
|---|---|--|
| OMS 2.36 Environmental Aspects of Bank Work (1984)  | OD 4.01 Environmental Assessment (1989, 1991) | OP/BP 4.01 Environmental Assessment (1995 and revised in 2013) |
| OPN 11.02 Wildlands: Their Protection and Management in Economic Development (1986)   | OD 4.04 Natural Habitats (1995)               | OP/BP 4.04 Natural Habitats (2001)                             |
| OPN 11.01 Guidelines for the Selection and Use of Pesticides in Bank Financed Projects and their Procurement when Financed by the World Bank (1985). Updated in 1987.   | OD 4.09 Pest Management (1996)                | OP/BP 4.09 Pest Management (1998)                              |
| OMS 2.33 Social Issues Associated with Involuntary Resettlement in Bank Financed Projects (1980). Updated as OMS10.08 Operations Issues in the Treatment of Involuntary Resettlement in Bank Financed Projects (1986) | OD 4.30 Involuntary Resettlement (1990)       | OP/BP 4.12 Involuntary Resettlement (2001)                     |
| OMS 2.34 Tribal People in Bank Financed Projects (1982)   | OD 4.20 Indigenous People (1991)              | OP/BP 4.10 Indigenous People (2005)                            |

|  |   |   |
|--|---|---|
| Forestry Sector Policy Paper<br>(1978)   | OP/BP 4.36 Forests (1993) and<br>Forestry Strategy (1991) | OP/BP 4.36 Forests (2002)   |
| O/S 3.80 Safety of Dams<br>(1977)  | O/BPP 4.37 Safety of Dams<br>(1996)                       | OP/BP 4.37 Safety of Dams<br>(2001)   |
| OPN 11.03 Management of<br>Cultural Property in Bank<br>Financed Projects (1986) | OD 4.40/4.50 Draft Cultural<br>Property (1991)            | OP/BP 4.11 Physical Cultural<br>Property (2006)   |
| N/A  | OP/BP 7.60 Projects in<br>Disputed Areas (1994)           | OP/BP 7.60 Projects in<br>Disputed Areas (2001)   |
| N/A  | N/A   | OP/BP 4.00 Piloting the Use of<br>Borrower Systems to Address<br>Environmental and Social<br>Safeguard Issues in<br>Bank-Supported Projects |

*Source: Park 2008, quoting Civic 1997-8; Goodland and Ledec 1989: f/n 32; Macdonald 2001; Rich 1994: 154; Scudder 1997; Shihata 1991; Wade 1997; World Bank 1991, 2008b).*

***Additional secondary data.***

As part of my discovery of the World Bank, I started to read a lot of different documents emanating from the World Bank, including the documents produced by the World Bank, news on the World Bank but also oral history documents. Although these documents were not necessarily collected in the strict sense of the term, with a defined purpose for research, and despite the fact that I did not integrate all of these documents in my defined data analysis, I still consider them to be relevant when describing the data which informed my knowledge of the World Bank, familiarizing myself with concepts and stakes surrounding the World Bank.

Oral archive, in particular, included the following interviewees: former World Bank Presidents including Robert S. McNamara, Ibrahim F.J. Shihata, Peter Woicke, James D. Wolfensohn, A.W. Clausen, Lewis T. Preston, Barber B. Conable; former World Bank presidents' advisors including Olivier Lafourcade and Rainer R. Steckan; and former staff involved in E&S policies including Gloria Davis.

### 2.3.4 Professional experience as a meta-data

Professional experience supports both data collection and data analysis.

Having worked at the World Bank may support data collection. For example, collecting interviews is certainly easier with knowledge gained through practice: not only knowing who worked on what enables more direct access to relevant interviewees, but it also helps guide the conversation. As mentioned, building credibility in the interview was perhaps less of a challenge for me than for someone who is not aware of current and past institutional discussions and language. Having worked at the World Bank also helps in the search for the relevant public documentation on the case studied, in particular relevant E&S policies, as mentioned above, especially considering the amount of documentation produced by the World Bank, and the need to have a documentary compass to select the proper material.

Concerning data analysis, a broad understanding of the World Bank episteme supports the analysis of the collected material. Working at the World Bank, including daily discussions on World Bank E&S strategies, is an ideal way to be familiar with certain codes, particularly semantic norms of the study context.

The first advantage of having worked at the World Bank is the open door towards the understanding of World Bank speak, in particular first and foremost, the myriad of acronyms used at the World Bank (e.g., ESF, ESIA, CPA, IP, OPCS, RSA, etc.) but also certain key terminology used at by the World Bank staff (e.g., Part 1, to designate Board members who are not Borrowers, Part 2, to designate Board members who are Borrowers, or the focus on stakeholders, governance, ownership).

Beyond words, working at the World Bank implies having a more intimate relationship with the World Bank institutional discourse, i.e., *“statements whose complex and relatively stable mode of structuring has a value for a community, texts associated with a shared conviction, which they stimulate and reinforce, in short texts that imply a positioning in a discursive field.”* (Maingueneau, 1993). The corpus *“defines for a given social, economic, geographical or linguistic area the conditions of exercise of the enunciative function”* (Foucault, 1969, p. 153-154). Having worked at the World Bank opens the door to reading between the lines of institutional discourses. For example, it allowed me to have

a certain familiarity with typical arguments raised on specific questions, who is usually perceived to be raising what argument according to CSOs, World Bank or Accountability Mechanisms, and the way these arguments are framed institutionally. Controversies are somewhat neutralized when transmuted in institutional summaries and institutional discourse. When reading written institutional reports, it is for example easier to spot potential disagreements and controversies behind a more neutral language after having worked at the World Bank. However, familiarity also poses a risk to projecting certain arguments heard once on other arguments analyzed through the PhD. This therefore requires careful attention to avoid projecting too many interpretations on the data analyzed.



## 2.4 Data analysis

Delving into data collection, one is confronted with a vast array of documents and interviews, interwoven with personal recollections that serve as both a helpful guide and a potential obstacle to the interpretation. The abundance of information is both stimulating and disorienting, especially in a complex organization with a copious amount of published documentation. The challenge then arises as to how to methodically approach and make sense of this overwhelming volume of data, which reflects a diverse range of experiences in the making, translated into a myriad of heterogeneous data points.

This section describes the different layers of analysis used in this thesis, starting by free-floating attention to the data (2.4.1.), to further describe the coding exercise that I used to organize the data (2.4.2.), complemented by a processual and actor-based analysis to understand perspectives onto responsibility (2.4.3), itself further supplemented by the use of the responsibility definitional framework (2.4.4.). I will also describe how theory building needs to be accompanied by epistemological vigilance (2.4.5.), and describe the three dimensions of this case (2.4.6.) to prepare the reader for the Results Chapter.

### 2.4.1 Free-floating attention to the data

Erikson (1958) defines “*free-floating attention*,” drawing from Freud, as “*an attention which turns inward to the observer’s ruminations while remaining turned outward to the field of observation, and which, far from focusing on any one item too intentionally, rather waits to be impressed by recurring themes*” (p. 72). Similarly, entering the field without a preconceived idea about a research question or even the need to conduct a PhD research allows for this kind of free-floating attention in a way that is perhaps more efficient than any process that would be, in contrast, based on a purposeful attempt to not have a research focus while intentionally conducting a research. This avoids forcing concepts onto reality and is rather meant to foster an openness to conceptual elements that may emerge from an empirical mass. Progressively, the need to conduct research on a certain topic emerges from an empirical enigma, but the enigma is not directly associated with existing conceptual frameworks.

As research unfolds, attention becomes increasingly fixated on recurring themes, particularly the issue of responsibility. This topic gradually takes shape as a central research question, akin to assembling a puzzle without a preconceived notion of what the final image should be. Armed with a developing research question, I decided to augment my scattered attention by incorporating a rigorous process of checking and coding qualitative data. This approach served to introduce a higher degree of systematicity into my analysis of the recurring themes pertaining to the ESF, therefore constituting both a consequence and a cause of the research problematization, understood as a process of analytical refinement.

#### **2.4.2 Cross-fertilizing interviews and archives: coding the data**

This research is heavily based on the use of NVivo for coding purposes. Coding has been promoted as a useful technique to systematize one's data analysis, and make sure that categories emerging from the analysis fit with the data. According to Glaser & Strauss (1967), through coding, theory is grounded in the data, and emerges from the data. Coding is somewhat both an extreme opposite and complement of free-floating attention, as it consists in slicing the material into units of analysis, sequentially and intentionally focusing on each specific item comprised in the data. The idea is that the reading of the text leads to the emergence of these units of analysis and the text becomes a series of signifiers. For example, when I read *"It is recommended that the division of responsibility, sources of funding and monitoring and evaluation criteria for Indigenous Peoples Plan be clearly defined"* (Submission, Government, China, Phase 2), I will code this sentence as *"need to clarify roles and responsibilities."* Reading different material texts, different codes will emerge. When reading another text, for example: *"I think there was a theme that did not seem to be particularly controversial but really consistent. There needs to be greater clarity between the roles and responsibilities of the Bank and the borrower"* (CSOs Forum, Washington DC, April 2013), I will reunite this sentence under the same code: *"need to clarify roles and responsibilities."* Progressively, codes will therefore emerge based on the data. Codes are further reunited under more generic themes. For example, the code *"need to clarify roles and responsibilities"* and *"variety of vocabulary to characterize Bank responsibility"* can be reunited under the theme *"lingering ambiguities in responsibility."*

These themes can themselves be further reunited under aggregated dimensions. The idea is that the coding analysis allows the research to progressively climb the layers of abstraction and conceptualization toward the emergence of a theory. Coding can be done manually, or facilitated through a software like NVivo. As part of this thesis, I used the general principle of coding to approach the interviews and archive (including consultation summary meetings and written submissions, which corresponds to more than 500 documents between 2 and 10 pages). My conceptualization of the text was guided by my research question focus: OSER definition.

While coding is a useful technique to organize the data set in distinct analysis units, it still requires caution as it is also a “*precarious construction*” (Allard-Poesi, 2003, quoted in Ayache & Dumez, 2011, Dumez, 2021). As put by Dumez (2021), pure coding is not possible and theoretical coding is a dead end. Indeed, when it comes to Glaser & Strauss grounded theory (1967), one needs to take into consideration that pure coding in the abstract, without any a priori interpretations, is not realistic and that risks of circularity remain as words do not naturally and spontaneously trigger concepts. Moreover, when considering the theoretical coding of Glaser & Strauss (1967), one needs to keep in mind the practical impossibility of exhausting the meaning of words through coding in a reasonable amount of time. However, coding is still an important tool to make sense of an indistinct mass of data, with the caveat that coding is conceptualizing analysis units and that words may correspond to more than one analysis unit only. Coding is in essence a way to reunite and distinguish: reunite close analysis units and distinguish between series of analysis units. As explained by Dumez (2021), this is in line with the process of defining according to Aristotle: “*Definitio fit per genus proximum et differentiam specificam*” - definition proceeds by citing a genus to which a term belongs, and the difference that gives its species and so locates it within the genus. In essence, coding is an attempt to define the data. This allows for the progressive emergence of a general understanding of the data, through different layers of generality and specificity.

There are modulations and choices that can be made in the realm of such definition process. For example, a triangle and a quadrilateral are mathematical concepts. From that perspective, they belong to the same genus as other mathematical concepts, like arithmetical concepts etc. However, they can also be seen as belonging to the genus

*“geometrical concepts,”* thus excluding a series of mathematical concepts that do not belong to the realm of geometry, and they can also be seen as belonging to the genus *“plane figure,”* thus excluding certain geometrical concepts which are not plane figures. In that case, one specific difference between the triangle and quadrilateral would be plane figure *“that has 3 straight lines”* and plane figure *“that has 4 straight lines.”* This illustration underlines that choices are made concerning the degree of generalization when searching for the minimal amount of generalization, and one needs to understand the discretion and related arbitrages inherent to coding, in line with Corbin & Strauss’s emphasis on intuition: *“The greatest tools researchers have to work with are their minds and intuition”* (Corbin & Strauss, 2015, p. 476).

As put by Dumez (2021) *“It is necessary to be aware that 1) several points of view are possible; 2) that these points of view are not theories (we are not trying to test theories on the material); 3) that these points of view must be made explicit; 4) that they show an interest that the researcher has in relation to the material that she has collected and that she is trying to analyze, it is this interest that allows the selective work. But this selection work is done on the basis of interest, not in the context of testing theoretical ideas (or we would fall back into the circularity of theoretical coding)”*(translation of p. 131). As such, my coding exercise was particularly focused on the question of responsibility, although some codes were more open, e.g., *“ESF conflict points.”* Broad problematization is a typical guide in the coding exercise.

In line with Ayache & Dumez (2011) and Dumez (2021)’s description of coding examples, my codes were heterogeneous, multiple and manually crafted. There are certain elements of bricolage that I want to underline in my description of coding in order to both debunk the coding myth and perhaps approach a bit more the essence of coding. Although coding is a useful tool to introduce more systematicity in data analysis, it should not be confused with an algorithmic analysis. As put by Corbin & Strauss (2015, p. 82), *“the analytic process, like any thinking process, should be relaxed, flexible, and driven by insight gained through interaction with data. It should not be so structured that it relies solely on procedures or — I might add — computer programs.”*

***On the precarity of conceptual categories.*** The precarious nature of the categorization leads to a constant evolution of these categories throughout the process of coding.

Indeed, it does not happen that one reads the material once and has all categories in mind. Even if the material has been read before, there is a progressive work done through the coding exercise. Sometimes a category appears to be robust at first because many of the statements read and analyzed actually fall under that category. However, the relevance of the category may further be questioned. For example, initially, “*safeguards reform process*” was too broad a category. I had to distinguish between “*Safeguards reform process organizational structure*” which dealt with governance issues related to the ESF consultation and “*Safeguards reform process ambiguities and criticism*” which dealt with language issues in the approach paper and summaries. Similarly, certain categories that were initially perceived as separate were gradually understood as being interconnected or overlapping, blurring the lines between them and ultimately converging into a single category. An illustrative example within my analysis is the progressive reunion of “*lack of capacity,*” “*resources,*” and “*Safeguards cost*” under a unified code: “*client needs Bank support on capacity building and ownership,*” as mentions of the lack of capacity were actually usually pointing to the lack and need of resources, particularly financial resources, to cover the costs of the Safeguards, with Clients heavily turning towards the World Bank for providing this support.

***On the differentiated level of generalization.*** When reading a text and coding the text, not all categories immediately stemming out of the coding analysis reach the same level of generalization. Some categories generated through a first coding of the text can even further be found to be encompassed by others categories generated through a first coding of the text. For example, reading an interviewee saying that a “*The ESF has many ambiguities,*” I coded “*ambiguity of the ESF,*” but when I read a meeting summary saying “*Participants asked for clarification on risk management to understand what is defined as risk and why,*” I coded “*ambiguity on risk assessment,*” and further subsumed the code “*ambiguity on risk assessment*” under the code “*ambiguity of the ESF.*” Speeches simply do not have a single level of generalization and it is an idle dream to think that a first exercise of coding will only generate first level categories and second level categories will only be generated from first level categories. The reality of a speech is more of a mixed bag of generalization level that further need to be progressively unraveled.

***On the multiplication of concepts.*** As explained by Ayache & Dumez (2011), one syntagma is not restricted to one concept and can actually signal different types of concepts. Indeed, the entanglement of multiple and contradictory dimensions (material, discursive, temporal, sensory, etc.) thus leads to an essentially ambivalent, equivocal and undecidable reality (Chia, 1995, Allard-Poesi, 2005). As such, when doing a first coding of the text, some syntagma were coded with several codes. For example, in reading “*The Bank should strengthen development processes that help in drawing up public policies,*” I coded both “*need capacity building*” and “*vocabulary used to discuss the Bank’s role*” because both may be relevant depending on what I want to focus on. Similarly, in reading “*The Bank should analyze the policies that exist in every country and support them to fulfill their own policies instead of imposing its own set of policies,*” I could either frame it as a “*decolonial*” argument or as an argument conveying a “*contrast between national jurisdiction and World Bank policies.*”

From all these ambiguities at the heart of the coding practice, a relatively coherent set of categories emerges, revisited by myself throughout re-reading, re-considering, re-coding and theorizing. I do not claim that these categories presented in this document (see Results sections, introduction of 3.1, 3.2, 3.3.) are the ultimate final fixed categories. I do not claim that the high-level structures emerging from the coding exhaust the material either. Part of the results will also go beyond such high-level coding structures. My only humble assertion is that the high-level coding structures have withstood the test of time, undergone rigorous scrutiny through reviews and coding reflections, and are thus inherently more robust than the average category formed during the initial document analysis. As a result, these coding structures can be regarded as the bedrock of my reflection, providing a solid foundation for further exploration and analysis.

### **2.4.3 Beyond coding: a processual and actor-based analysis to understand perspectives on responsibility**

Coding is a wonderful theoretical stepping-stone. As I coded, several of the above actor-based questions progressively intuitively emerged to further direct my attention towards specific processual and theoretical aspects of the data.

First, as analysis units were created, questions regarding interrelations between these analysis units were emerging. These analyses were the following:

- Were analysis units changing over time, throughout the phase of the ESF consultation?
- How were stakeholders distributed in the identified analysis units: were some stakeholders more represented in one or the other? Are governments more likely to talk about ownership? Are CSOs more likely to multiply requests? Are governments and implementing agencies more likely to talk about the simplicity issue (and use the term rigid)? Are governments and implementing agencies more likely to talk about the issue of flexibility? Do strong governments emphasize flexibility and weak governments emphasize capacity?

However, the coding method is not conducive to a processual and actor-based analysis. The latter has to come as a second step, after the coding exercise is done. This requires an additional coding of the data, by phases and by actor. Several comments were categorized as belonging to phase 1, others to phase 2 and others to phase 3. Similarly, several comments were categorized as belonging to governments, CSOs or other actors. This was particularly difficult and required a certain level of vigilance.

First, the nature of the material does not always clearly point to who said what, although I believe that the material is still a good proxy for analyzing different stakeholders' opinions. Vigilance needs to be given as to how many times an opinion is conveyed through summary meeting for specific stakeholders. Indeed, although meetings are labeled by types of stakeholders ("*CSOs*," "*Governments*," "*Development Partners*," "*Private Sector*," "*MS*" consultations), no word can be attributed to a specific person, given all meetings were conducted under Chatham House Rules, protecting the anonymity of participants. However, triangulating all meeting summaries leads to identifying certain patterns that are specific to CSOs, certain patterns that are specific to Governments, and these patterns can further be substantiated through the use of stakeholders' submissions, which are signed by specific organizations contrary to meeting summaries. As such, even though one stakeholder A could have made one comment in a stakeholder B meeting in line with a stakeholder B pattern (noting that the stakeholder A comment would also

be influenced by the presence of stakeholder B representative in such case), this study considers that meeting summaries were good proxies to determine pattern of comments per stakeholder.

The difficulty arises when one statement in meeting summary does not seem to correspond to a pattern identified in specific sets of stakeholders: in this case, it may be that certain comments were conveyed less systematically although they were shared among stakeholders, or that a marginal voice within a certain stakeholders' group had a distinct comment, or the fact that this meeting was actually also attended by another stakeholder's group representative (e.g., a CSO in a Government meeting or a Government representative in a CSOs meeting).

For example, there is one CSO meeting in Niger where participants stated that: *“Un excès de conditionnalités liées à la sauvegarde environnementale et sociale pourrait nous dissuader de nouer un partenariat avec la Banque.”*<sup>4</sup> (Consultation Meeting Summary, CSOs, Niger, Phase 3, December 2015). This statement is strange: it does not reflect patterns of statements in CSOs meetings, regarding the fact that the World Bank should not undermine requirements, and it refers to a partnership with the World Bank, which rather reflects patterns found in States meetings, where there is a strong focus on whether or not the ESF is going to facilitate World Bank-Borrowers partnerships. Although one could argue that there are partnerships between the World Bank and CSOs during World Bank projects, this is not a typical framing found in CSOs meetings. At the same time, one also knows that CSOs have long fought against World Bank conditionalities in the context of Structural Adjustment Programs, and that this debate still re-emerges at the surface of current debates in different platforms. When looking in more detail at the list of participants involved in this meeting, one can see that the meetings included people who were very close to the Governments. For example, Bachard Lamine intervened as a consultant on a World Bank project with the Ministry (the Niger Community Action Project for Climate Resilience) and Garba Hamissou works for the Ministry of the Environment in Niger (referred to in the consultation summary as *“MESU/DD”*). This could explain why this statement does not reflect typical CSOs comments: it would simply not be made by a CSOs representative who does not have a conflict of interest with the World

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<sup>4</sup> Translation: *An excess of conditions related to environmental and social safeguards could discourage us from forming a partnership with the Bank.*



Bank or Government. However, one cannot exclude the hypothesis that this comment would have been a comment made by CSOs representative, thus representing marginal opinions among the CSOs community, although this hypothesis is less likely.

Symmetrically, when during a Government meeting, participants stated: *“The Bank’s role in supporting and promoting the protection of human rights needs to be better explained since in our view, we see the Bank as having strong leverage in encouraging compliance with human rights obligations, especially bearing in mind the particular context of South Africa with its history of discrimination.”* (Consultation Meeting Summary, Government, South Africa, Phase 3, November 2015). I found this rather unusual, given Part 2 Government representatives rather have the tendency to pushback against wording related to human rights. In this meeting, one participant also represented the Development Bank of South Africa, which could explain the comment, or the fact that this statement took place during a more intimate meeting (in this case, 9 participants) and this could lead Government representatives to hold discourses that are less institutional. In this case, I also used this comment without putting the emphasis on the fact that this was made during a Government meeting. Similarly, in MS meetings, one cannot really identify who is speaking. In the same meeting, comments can both be: *“nous tenons à ce que la Banque s’attaque à ce problème et nous espérons qu’elle prévoira des conditionnalités à cet égard lorsque l’État lui soumettra des demandes de financement.”*<sup>5</sup> and, as mentioned above, *“un excès de conditionnalités liées à la sauvegarde environnementale et sociale pourrait nous dissuader de nouer un partenariat avec la Banque.”*<sup>6</sup> (Consultation Meeting Summary, MS, Niger, Phase 3, December 2015). As such, although MS meetings seemed to rather channel CSOs perspectives, I was particularly careful about how I would use an MS meeting summary.

This inherent limit due to the relative imprecisions of meeting summary limits the possibility of analyzing marginal opinions in a group of stakeholders. However, the fact that meetings summaries still include a majority of a certain stakeholder group still allows for an analysis per stakeholder by looking at patterns of comments.

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<sup>5</sup> Translation: *We want the Bank to address this issue, and we hope that it will include conditions regarding this matter when the State submits financing requests.*

<sup>6</sup> Translation: *An excess of conditions related to environmental and social safeguards could discourage us from forming a partnership with the Bank.*

This does not necessarily mean that one should assume homogeneity of one stakeholder group. One similar group may actually comprise conflicting if not contradictory opinions. Nonetheless, it is still instrumental and useful to map the arguments, and it is also interesting that stakeholders may make conflicting comments (either because representatives disagree with each other or because two contradictory arguments may be used with the same purpose, for example, as developed in the results, when Borrowers pushing back against the ESF argue both that the ESF contains standards that are too strict compared to their framework because of their capacity and that the ESF is not relevant because their own framework is already fully aligned with ESF provisions) – the analysis therefore notes where patterns of comments are conflicting.

After categorizing the comments by time and by actors, I was able to check which code from the first coding exercise was more represented by phases and by actors. Analysis by phases and by actors is both seeking distinctive traits of certain phases and certain actors, and recurrence among actors and phases. For example, do all actors agree throughout the phases that there is a need to further clarify responsibility, or does this concern certain actors, or was this a question that was only raised in phase 1 and not in phase 3, which would signal that clarification may have been done on responsibility.

#### **2.4.4 Beyond a processual and actor-based analysis to understand perspectives on responsibility: applying the definition framework on responsibility**

Once certain types of responsibility are identified as codes that belong to certain actors rather than others, they can be analyzed through this study's responsibility definitional framework to support a detailed comparison about actors' perspective onto responsibility. The responsibility definitional framework is reiterated in the Table below.

In line with Ricoeur (1994) and Neuhäuser (2014) and based on the idea that decisions around responsibility distribution must be made in each individual case in line with Young and PCSR's studies on responsibility, I apply the open set of questions to define responsibility to my case, in order to understand different dynamics of arguments around responsibility, either depending on the stakeholders, or the justification model used etc.

I use this set of questions as a third step after coding and process-based or actor-based analysis. The definitional framework allows us to analyze how these codes can be organized as responses to the different OSER questions, and enables us to identify patterns of discourses on OSER definition. The questions constituting the responsibility definitional framework are purposefully left open, to avoid imposing a set theory onto the data, but rather use open theorizing as an instrumental tool for theory building based on the data.

Table 6: Responsibility definitional framework

|  |
|--|
| <b>Determining key elements of responsibility</b>  |
| Who is responsible?  |
| For what outcomes is the party primarily responsible?  |
| To whom is the party responsible?  |
| On the basis of which standard is the party responsible?   |
| <b>Determining the connection to the impact</b>  |
| Concerning potential impacts, is the organization responsible through a forward-looking responsibility to prevent future adverse impacts or stimulate future beneficial impacts?   |
| Concerning actual adverse impacts, is the organization responsible through a backward-looking causal responsibility, which may include either direct or indirect impacts, as well as intentional or unintentional impacts? This question will be considered equivalent to the following: concerning actual adverse impacts, is the organization responsible through a forward-looking responsibility to repair past impacts it has caused? |
| Concerning actual adverse impacts, is the organization responsible through a forward-looking responsibility to compensate for past impacts it has not caused?<br>Such responsibility will also be called non-causal responsibility.  |

### 2.4.5 Beyond coding and actor-based analysis: theory building and epistemological vigilance

Beyond conceptual links, coding also progressively leads to the emergence of interpretative links, i.e., dynamic links between conceptualized categories, which may be a consequential

analytical link pointing to a causal mechanism between two concepts. For example, if one category identified is meta-organizational pressures, and the other category identified is the ESF ambiguity, interpretative work is necessary to make the hypothesis of a causal link between both, that is to say the hypothesis of a theoretical mechanism.

There is also a need to distinguish conceptualization at the coding level, whether in general or by actor, and interpretation after the coding work. Conceptualization is the above-described work of progressively building categories based on the data available, and further analyzing them by actor or through phases. Interpretation is a challenging exercise that requires specific arbitrages and intuitions, and leads to specific results, describing the interactions between the various inferred concepts. For example, one can assume that the ambiguity of the ESF is actually caused by the meta-organizational pressures.

However, one needs to be very careful when making such theoretical hypotheses. In a qualitative research, the constant risk of circularity is so important that there is a need to include a few words on what I call the circularity ghost. As put by Vaughan (1992, quoted in Dumez, 2021, p. 41) *“the paradox of theory is that at the same time it tells us where to look it can keep us from seeing.”* Projecting theory onto a research object functions like a flashlight in the dark – one only illuminates the areas one directs the light toward, while the surrounding remains shrouded in shadow. It is a deep and humbling realization that our vision may overlook the margins of our perception, the substance at the periphery. Even more so, it is as if the object were to start living a life of its own just because looking at it would point to what one cannot look at, to the fact that looking is always somewhat situated, biased, partial and limited. If perceiving an object altogether in one movement would be possible, one would not have that problem. But we are neither omniscient nor objective. As explained by Didi-Huberman (1992), everything works as if, in our attempt to see the object, the object would start looking at us, in a movement that suddenly embodies a certain strangeness inherent to the act of seeing.

This strangeness can be the object of existential angst, aesthetic bliss or scientific misery, but when it comes to conducting research, one needs to arm oneself with a few tools to maintain circularity at a distance.

***Theoretical openness and systematic coding.*** As explained by Dumez (2021), one mitigation tool is to avoid constraining theory at the beginning of the research, with an

aim to guide our eyes, not to structure our sight. The above-mentioned serendipitous *in media res* perspective that I enjoyed at the beginning of my research was an opportunity to avoid imposing a concept onto a field, as the relevant concept emerged from the field.

The systematic coding of a series of constructs emerging from the data was a way to avoid equal attention to empirical data to be immediately replaced by over-theorizing or biased theorizing.

Furthermore, the analysis of the data in light of a series of questions, with the series of inductive categories in mind, allows the intervention of theoretical constructs to be a distinct step. The fact that this definitional framework is a set of open questions also limits over-theorizing. This is meant to avoid constraining the fields into conceptual chains. My list of questions on responsibility is not meant to search for a specific answer in a data set and before having looked at the data, but rather to openly search for answers.

***Process tracing: triangulating the interpretative theoretical mechanism.*** In order to interpret the link between the different categories stemming out from the coding exercise and analyzed by actors, that is to say, in order to actually start interpreting what the coding results mean from a theoretical perspective, and come up with a theoretical mechanism to actually explain the data, a principle of triangulation is necessary. Verifying what is said when possible, nuancing statements where not possible to verify, is instrumental to analyzing data in the form of words, arguments and speeches and formulating interpretative results based on this data. Each time a new piece of evidence is presented, I am able to update my confidence in a certain hypothesis, in line with Bayesian logic. Bayes' Theorem is a mathematical formula used to calculate the probability of an event occurring based on prior knowledge or information. This theorem has wide-ranging epistemological implications. One of them is that prior beliefs are taken into account and updated based on empirical evidence. This new epistemological logic inspired the process-tracing method of causal inference used in political science (George & Bennett, 1985, King et al., 1994). In particular, Van Evera (1997) argues that the process tracing method should be used to test and refine theoretical hypotheses about causal mechanisms. Building on process-tracing tests (Van Evera, 1997) previously used by Schettler (2020) when analyzing the ESF, I had certain process tracing tools in mind when analyzing comments provided during the consultation. While not applied system-

atically to the NVivo coding exercise, they were useful heuristic guides to bear in mind for data triangulation and theory building purposes:

- ***Straw-in-the-wind test*** is neither a necessary nor a sufficient criterion for accepting or rejecting the theory. This test can confirm that the hypothetical mechanism is a promising lead. For example, if at some point in the abductive work and coding exercise, one makes the hypothesis that the World Bank ESF is flexible, the fact that two persons interpret one ESF sentence in contradictory manners would make the hypothesis plausible, but passing the test does not necessarily confirm the hypothesis (as contradictory interpretations of one ESF sentence could stem from another explanation than flexibility) and not passing the test would not suffice to dismiss the hypothesis.
- ***Hoop test*** is a necessary criterion. Failure to pass a hoop test can be disqualifying for a theory but passing the hoop test does not necessarily lend strong support for the theory. For example, if at some point in the abductive work and coding exercise, one makes the hypothesis of negotiation results shaped by meta-organizational pressures, the presence of meta-organizational pressures would indicate that this is a promising lead while not confirming the hypothesis. The absence of meta-organizational pressures, however, would go against the hypothesis.
- ***Smoking gun test*** is a sufficient criterion: passing a smoking gun test lends strong support for the theory, whereas failure does not necessarily lend strong support against the theory. For example, if at some point of the abductive work and coding exercise, one makes the hypothesis that the World Bank ESF flexibility is structured by meta-organizational pressures, the fact that several interviewees state that some decisions were not taken about the ESF as World Bank's Board members did not agree among themselves and there was a need to have unanimity at the Board, could be considered as a sufficient criterion to confirm the hypothesis. If the interviewee did not say that, however, it would not necessarily go against the hypothesis.
- ***Double decisive test*** is both a sufficient and necessary criterion: passing a double decisive test lends strong support for the theory while also lending strong support against alternative theories. For example, if at some point in the abductive work and coding exercise, one makes the hypothesis that the ESF broadens its coverage

in terms of E&S issues, the fact that new themes were introduced in the final ESF pass a double decisive test.

***Testing the explanatory power of other theoretical mechanisms.*** Another way to test the result is not to test the explanatory power of the proposed theoretical mechanisms, but actually testing the explanatory power of rival theoretical mechanisms. Case studies are privileged objects for the test of rival hypothesis (Yin, 1984) as they constitute a set of data that can lead to several theoretical explanations. The articulation between the World Bank context, stakeholders' arguments on responsibility and the result of the negotiation may be seen under different lights. This theoretical plurality, which sometimes looks like theoretical fuzziness, can and should be explored. Indeed, as put by Dumez (2021), there is a need to avoid the risk of looking away from equifinality, i.e., the fact that one particular phenomenon may be explained by diverse causal chains. In these cases, there is a need to evaluate the explanatory power of other hypotheses. This can be done through running the rival hypothesis through the above test. If both the proposed theoretical mechanism and the rival theoretical mechanism pass the above tests, this can mean several things: either an additional test is needed to prove one of these theories wrong, or there is undecidability on the response, or both theoretical mechanisms are true, or the question is not well formulated.

This study focuses on the causal mechanism which inductively emerges from the data. Social scientists recognize that social phenomena are complex and multi-causal, and that a single mechanism may not be enough to fully explain a given outcome. Therefore, process-tracing studies typically focus on identifying the presence and plausibility of causal mechanisms, while acknowledging that other factors may also contribute to the outcome in question. However, I still find it healthy to open a room for discussion of this causal mechanism vis-à-vis other potential explanations in the discussion. Indeed, discussing the results in the discussion section will explore whether rival articulations can be thought of and how various consistent explanatory constructs can be evaluated. Confronting a set of data to a competing explanatory model is a way to test the explanatory power of a theoretical result.

***Testing the results in follow up interviews.*** After I had my preliminary results, I also conducted a few additional formal interviews in order to test my preliminary results

(see Table 3). As explained above in the sub-section on interviews, these preliminary results were brought up at the end of the interview, after asking follow-up and open questions, and would take the shape of “*based on my current analysis, I currently identify the following as a key pattern to explain the way responsibility is defined, what do you think about this preliminary result*”? These interviews were not meant to reach a point of significant consensus with experts on these questions, but were a good test for me to further question or refine certain of my results. Interestingly, while most would agree, some would disagree with my findings. In this case, the question is always: does this reflect institutional roots that are somewhat different than the roots of my current results, or does this actually reflect a shortcoming in my analysis? Disagreements had to be treated with care, for diverging opinions not to over-determine the final results, while remaining open to questioning or nuancing the results, and further refining or deepening fact-checking or triangulation where needed.

Despite my best efforts to reframe the object, consider multiple perspectives, and maintain theoretical openness, I cannot entirely eliminate the risk of circularity. My understanding of the object is shaped by a continuous interplay between proximity and distance. Therefore, while I must strive to avoid circularity, I must also acknowledge its presence and maintain a critical distance that allows me to avoid becoming overly entangled with this risk.

Now that I have described my relationship with the case, the way I collected data, and my steps to further analyze the data, there is a need to better understand the case at hand, as this case will further guide my analysis in the Results Chapter. A brief description of the main dimensions of this case is thus key to better understanding how the above-described analysis was embodied in the above-described data and with the case at hand.

### **2.4.6 One case, three dimensions**

Throughout my study, I chose to analyze the case of the ESF in its three main dimensions: contextual, processual and substantive.

#### ***Contextual analysis***



As mentioned by Yin, “a case study is an empirical inquiry that investigates a contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident” (Yin, 1984, p. 13). Context is an important dimension of the case: how are the World Bank’s internal dynamics and environment influencing the negotiation? As emphasized by Corbin & Strauss, context is structural of how actors may give meaning to a situation: “when analyzing data for context, researchers are looking for the reasons persons give for the action and interaction that they take (...) Action–interaction can be constrained or facilitated by conditions such as personal ability, motivation, knowledge level, environmental factors, cultural practices and taboos, economic and political factors, and so on.” (Corbin & Strauss, 2015, p. 473, 474). Although actors cannot always explicitly explain the contextual factors constraining or enabling their actions, I argue that contextual factors should be, at least to some extent, reflected in the collected data. As such, particular attention will be given to potential explanatory contextual factors enshrined in the data set.

### ***Longitudinal and processual analysis***

As the case is a process per se, the analysis will have to be longitudinal and processual, bearing in mind Corbin & Strauss (2015) understanding of the data: “Process denotes adaptive changes in action–interaction. Action–interaction occurs in sequences. With the passage of time—even short periods of time—the conditions that make up the action–interactional context are likely to change. The changes in conditions may be due to external events or to something that transpires during the transactional sequence. As conditions change, action–interaction also may have to change in order to bring about desired outcomes—that is, to match action–interaction to the changing set of circumstances” (p. 474). In this case, the period between 2012 and 2016 was structured by 3 phases, i.e., three rounds of comments, and data analysis will need to pay attention to the potential evolution of the actors’ argument. This study thus follows a temporal bracketing strategy to analyze process data. As put by Langley, researchers often wrongly neglect the complexity of their data by slicing up time without taking into account non-linear dynamics and feedback loop in decision making: “This is where the central challenge lies: moving from a shapeless data spaghetti toward some kind of theoretical understanding that does not betray the richness, dynamism, and complexity of the data but that is understandable

*and potentially useful to others.*” (Langley, 1999, p. 694). With the temporal bracketing strategy, the shapeless mass of data becomes a series of defined phases, with both a certain continuity throughout the phases and discontinuities at the frontiers of phases: in this case, change of the proposed ESF text at the frontier of phases. These phases are descriptive and do not presume a developmental logic or a mechanism, although process tracing still opens the room for further explaining an outcome and building theory on a specific topic (Beach & Pedersen, 2013). These phases do not presume of the simplicity of decision-making process during the ESF consultation. Rather, these phases are meant to observe whether patterns of decision-making evolved throughout the process or not, in order to further theorize the way OSER is negotiated. Therefore, these phases do not neglect the complexity of the data: rather, they structure the data in a way that facilitates the observation of data complexity.

### ***Substantive analysis of the outcome***

The process of the ESF consultation was meant to have one outcome: the ESF itself. Analysis will need to substantively focus on the ESF resulting document, complemented by some of the comments interviewees made about the ESF as a result. This result will be analyzed in combination with the interim distinct ESF drafts (the draft resulting from Phase 1 and the draft resulting from Phase 2 of the ESF consultation).

### ***Goal and limits of three-dimensional single case study on the ESF***

As put by Gerring (2004), case studies often entail “*a choice between knowing more about less, or less about more*” (p. 49). This comprehensive three-dimensional single case study, comprising attention to the (i) context, (ii) process, and (ii) substance of the ESF, is meant to explain the outcome of the ESF consultation and build theory concerning OSER negotiations. Although this single case study has limited power in terms of generalization, it still opens the room for understanding the complexity of the studied phenomenon, i.e., OSER negotiations. As opposed to large-N multiple case studies which are more often restricted to analyzing correlations between inputs and outputs, and may “*decontextualize the realm of social behavior by employing abstract variables that seem to bear slight relationship to the phenomena of interest*” (p. 50), single case studies enable the research to be context sensitive and look at the depth of correlations between inputs and outputs,

including the detail and richness of the interaction between elements of the case, paving the way for clarifying the reasons for these correlations (Gerring, 2006).

Although single case studies are not the best equipped to enable theoretical generalization, this study still holds a degree of generalizability due to inherent characteristics between this case and other cases. Indeed, this case is a typical case to some extent: it shares similar characteristics with other MBDs in terms of mandate, governance, financing, project cycle, policies, and the need to regularly update their Safeguards policies. This sharing of key characteristics renders the applicability of this thesis' results to other MDBs more likely.

Finally, considering the rise of global challenges that organizations need to tackle globally, with an increase in global value chain complexity, having results on the complexity of responsibility definition and related negotiations between two actors of a global value chain may further help better understand the types of trade-offs associated with negotiating OSER in organizations enshrined in global value chains.

The ESF consultation strikes a fair balance between the particular and the general in order to teach us about OSER negotiations, while one still needs to remain cautious about the limits of the single case study design when it comes to theoretical generalization. The triangulation of various pieces of evidence progressively co-substantiate the causal mechanism that this research seeks to unveil to describe and explain factors influencing OSER negotiations outcomes.

## 2.5 Synthesis

This chapter focused on the concept of qualitative case study, showing that this case study on the ESF consultation is a single exploratory case study on the question of OSER definition.

As shown in the figure below, the primary material collected in this study is the archive of the public consultation, which offers a fairly good perspective on the elaboration of the ESF. I complemented those public archives with insiders' perspectives on the ESF, using the exploratory and complementary interviews I conducted on the subject. The analysis of the archive and interviews were also supported by the fact that I worked at the World Bank for a year before starting her PhD. Without using data from this consulting work, knowledge of the World Bank still informs my ability to find the right data in the public domain, ask relevant questions during interviews, and facilitate the reading of public statements and dialogue summaries.

Data analysis included several layers, including free-floating attention, NVivo coding, processual and actor-based analysis. This was further complemented by the use of the responsibility definitional framework, to better understand the implications of these different perspectives for responsibility.

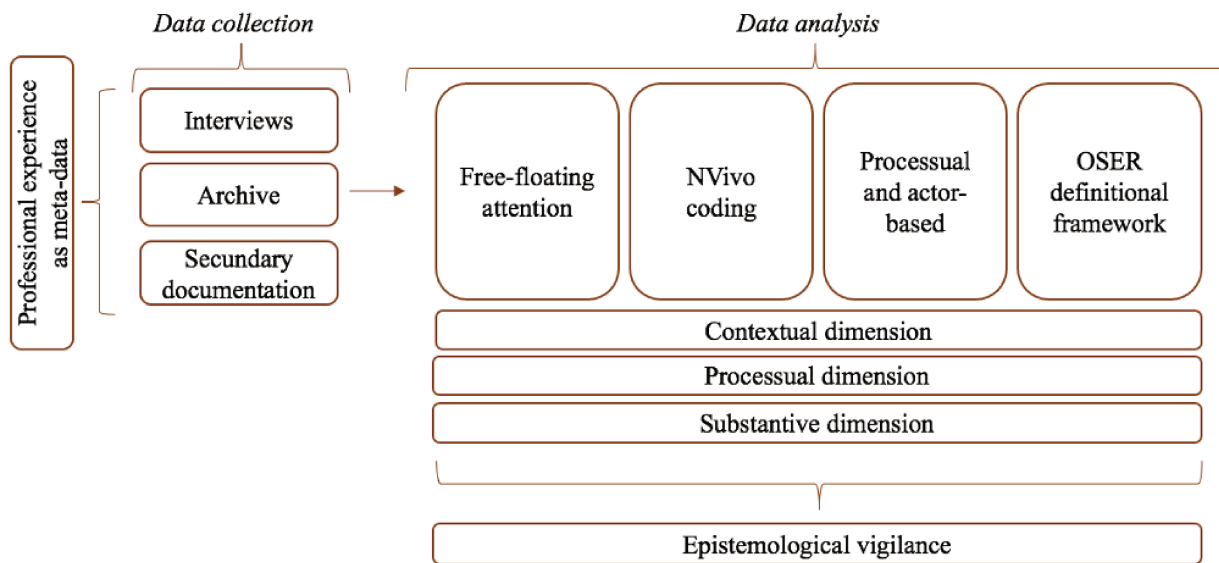


Figure 8: Data collection and analysis summary

Chapter 3 will present the results of this analysis, by focusing first on findings on the case context, and then on findings on the ESF consultation process, to further deepen our understanding of how the case context informs the case process and results, i.e., how the World Bank organizational structure and environmental influence the negotiation over the World Bank's responsibility during the elaboration of the ESF.

## Chapter 3

# Results. The influence of the World Bank's organizational nature and environment on the (in)definition of its OSER

*“On avait sûrement calomnié Joseph K., car, sans avoir rien fait de mal, il fut arrêté un matin.”<sup>1</sup>*

Le Procès (1925), Kafka

The World Bank is an investor, and, as it lends to Borrowers, the impacts of World Bank's projects are mediated by the action of the Borrower. As mentioned, the responsibility for E&S issues is no longer limited to direct causal impacts only: one now has to take into account the “*connected*” responsibility (Schrempf, 2012) of the investor. However, while the investors may have a responsibility, defining which responsibility and which connection to the impact is still a complex challenge.

As mentioned above, responsibility is intrinsically linked to causing an effect (whether through causing the impact or causing the remedy). The ability to cause an effect is defined by the role of the organization and the capacity and leverage the organization has to exercise its function. Indeed, while liability is one side of the responsibility coin,

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<sup>1</sup> Translation: *Someone must have been telling lies about Joseph K., for without having done anything wrong he was arrested one morning.*

capacity and leverage are often the other side, and while stakeholders seek to increase their capacity and leverage, their tendency to push for or accept their obligations and liabilities may be less natural. Understanding the World Bank's role as well as the World Bank's capacity and leverage is key to understanding the World Bank OSER negotiations.

Based on World Bank documents and interviews related to the World Bank structure and project processes, I conducted a preliminary analysis of the capacity and leverage each actor of the chain had, thus reflecting a shared and ever-negotiated responsibility, which I summarized in the below Figure. The Figure distinguishes three main actors: the World Bank's Board, Bank Management, and Borrowers. Each of these stakeholders have distinct roles: the Board main role is to approve projects, World Bank Management and staff provide advice, conduct due diligence and supervision on approved projects. Borrowers have the primary role to prepare, implement and report on projects. Each of these stakeholders has a distinct capacity linked to their respective funds and staff, including specific expertise they may have (for example, the World Bank is renowned for its pool of international experts), as well as the adequacy of processes each institution has to organize and administer funding and staff. This capacity determines to what extent they can have an impact. While capacity can be seen as their respective power in absolute, one also has to consider their leverage, that is to say the relative influence these actors have on one another. Both capacity and leverage relate to power, and thus responsibility, but they are different perspectives on actors' power. In global value chains, leverage has to be considered as a key distinct concept, because influence over another actor can be seen as a form of causality: it integrates an actor far removed from the direct caused impact as connected to the causality chain, as this actor has influenced the actor causing the impact. In the case of the World Bank, the World Bank's Board has leverage as it is the ultimate decision body, approves funds, projects, and provides approval for World Bank Management to operate as it does. Finally, Borrowers have leverage in the sense that they are clients that can pick and choose their sources of finance and are also represented at the Board level. Borrower's sovereignty is also important to consider as part of leverage: while it is not a means of active influence on other actors, it is by definition a repellent of others' influence onto the sovereign domain and therefore can act as counter-leverage.

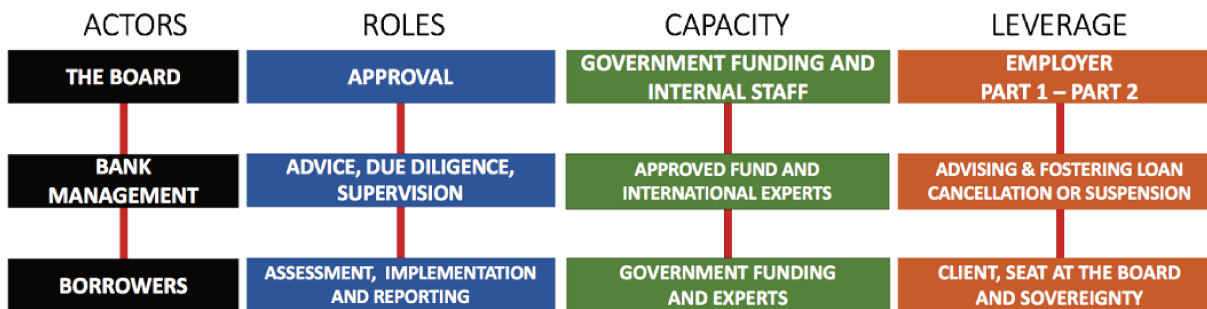


Figure 9: Responsibilities of the World Bank vis-a-vis Borrowing States

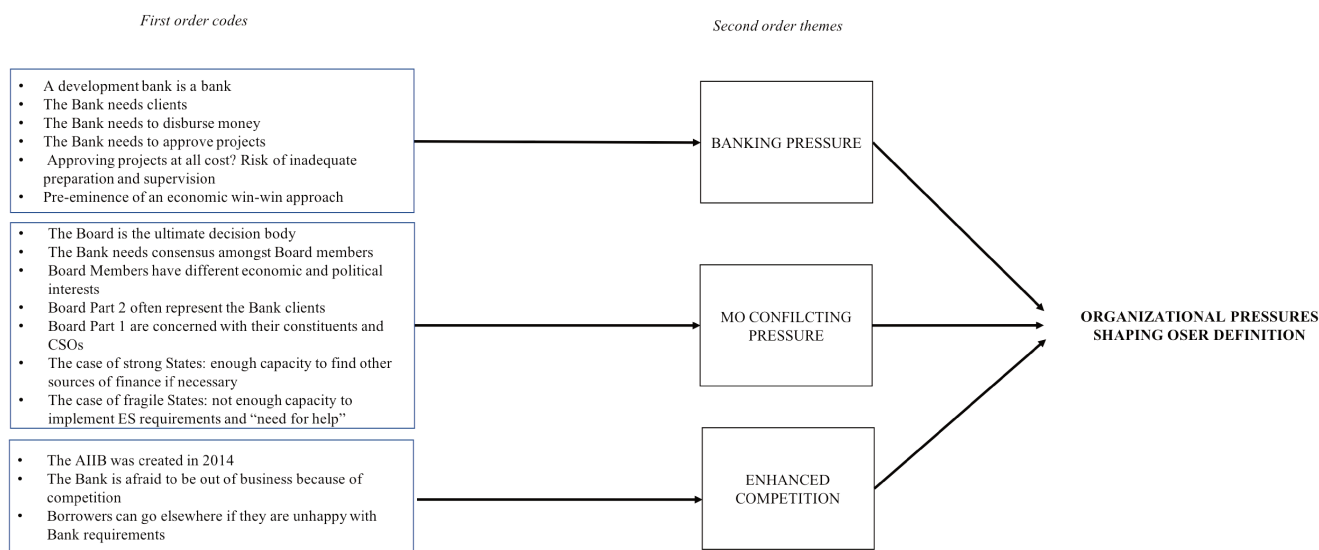
However, in line with the social connection model of responsibility, responsibility is ever negotiated and the role and leverage of the organization is both the object and result of constant debates. The above basic scheme summarizing the capacity and leverage of key stakeholders supervising and doing World Bank projects clarifies key fundamental elements of the World Bank responsibility in terms of capacity and leverage and will be used as a basis to understand certain key contextual, processual and substantive aspects of the World Bank OSER.

As such, this chapter will first look at the nature of the World Bank as an organization, how this constitutes a key context for the negotiation, as well as implications of the context on the negotiations (3.1.), before diving into describing the debates on responsibility through a processual and actor based perspective (3.2.), in order to finally analyze the resulting framework and how this can be interpreted as shaped by the organizational nature of the World Bank, i.e., the context for this negotiation (3.3.). Each part will be associated with the high-level coding that was done, respectively on the context, process and substance of the ESF.



### 3.1 Contextual results: the World Bank organizational nature and its environment

Drawing on the literature and interviews coded through NVivo, two organizational pressures linked to the nature of the World Bank seem to stand out as relevant in organizational negotiations at the World Bank: the banking pressure and the meta-organizational pressure. A third pressure linked to the World Bank environment emerged from the coding: the competition the World Bank faces as various sources of finance are being developed (see Figure 10 below). Indeed, stakeholders seemed to converge towards one main point: diverging goals related to the organizational nature of the World Bank shaped the World Bank’s discussions around its E&S responsibility. These codes were also reflected in the consultation meetings summary, showing how these contextual pressures shaped the ESF negotiation.



Source: NVivo coding

Figure 10: High level coding structure, contextual dimension

In this section, I will first describe how the World Bank, as a development bank, is both guided by its banking and development mandate, which results in conflicting objectives: when talking about E&S issues, internal and external stakeholders tend to repeat that the World Bank, ultimately, is a bank (3.1.1). Second, the World Bank, as an association of States and MO, is heavily influenced by the geopolitical game power and evolving conflicting objectives of the World Bank's Board: the Board is an important body, that ultimately approves projects and policies. At the same time, Board members have very diverging views about the World Bank's role, which tends to create difficult diplomatic situations when a consensus is needed on a sensitive issue (3.1.2). Third, I will describe the competitive environment of the World Bank and show how this environment exacerbates the banking and MO organizational pressures at the World Bank (3.1.2).

### **3.1.1 The World Bank as a development bank: competing organizational demands**

Academics (e.g., Park, 2018) and most interviewees as well as keynote speakers in World Bank public conferences describe the World Bank as functioning like a bank. Indeed, the World Bank's model is to lend money to sovereign States. It's worth noting that the World Bank's official apolitical mandate also defines the World Bank's scope as being limited to economic considerations: as per IBRD and IDA articles of agreements, IBRD, IDA as well as their officers *"shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be weighed impartially in order to achieve the purposes."*

The World Bank, as it is focused on economic considerations and functions at least to some extent as a bank, which must first and foremost approve projects and retain its clients, may pushback against responsibilities on E&S issues which can be perceived as complex, costly and time-consuming (and therefore less attractive) by its clients.

#### ***The World Bank as a bank: banking pressures and approval culture***

As identified in the literature about the World Bank, there are strong incentives for World Bank staff to approve projects: convince borrowing governments of their necessity, get the

projects approved as quickly as possible, in order for the World Bank to approve a certain portfolio of projects every year – which has been already mentioned as one object of key historical criticism of the World Bank by various stakeholders. Indeed, the Wapenhans Report’s main finding, in October 1992, suggests a few explanations for declining portfolio performance. One of them is what the report calls the “*approval culture*” or “*disbursement imperative*,” these incentives were identified in 1992 as impacting both appraisal and supervision work and central to the World Bank’s ineffective implementation of projects.

At appraisal, “*in the eyes of Borrowers and co-lenders as well as staff, the emphasis on timely loan approval (described by some assistance agencies as the ‘approval culture’) and the often active Bank role in preparation, may connote a promotional rather than objective-approach to appraisal. Borrowers allege that loans feature conditions thought to be conducive to approval by management and the Board, even where these may complicate projects so as to jeopardize successful implementation*” (Wapenhans Report, p. iii). As such, the report finds that some risks may not be made clear in order for the approval to go through: “*The pervasive emphasis on loan approval is not matched by equal emphasis on implementation planning and identification and assessment of major risks to project performance*” (Wapenhans Report, p. iii). Indeed, “*the major findings are that Bank appraisals are not made clear the macroeconomic, financial, and institutional assumptions and risks underlying the analysis (...) Other appraisal shortcomings noted by the Task Force included: unreliable assessments of institutional, managerial and organizational capacities for project implementation; poor assessments of Borrower capacities in the area of financial management (including auditing capabilities during implementation); the frequent absence of explicit consideration of alternative technical solutions and options; inadequate assessments of risks and their impact on expected benefits; and (not infrequently yet critically) failure to accurately gauge country commitment and local support.*” (Wapenhans Report, p. 14). As such, World Bank staff may comment that: “*having longer delays for Board, it is not consistent with IDA official objectives*” (Interview, World Bank staff).

During supervision, the focus on approval means that there are fewer incentives to conduct effective supervision of a project. Indeed, the banking approval culture does not enhance World Bank’s responsibility beyond appraisal. If World Bank staff get rewarded

for the approval of a loan, after approval, there is much less of an incentive to supervise the actual implementation of the project, including implementation of E&S risks. This may be nuanced by the way the budget is distributed for supervision activities, although exact numbers are difficult to ascertain: *“Not everything has to be focused on approval necessarily. 50% of my budget was allocated to supervision. I had 25% for analytical studies, 25% for preparations. When I was a Director, I had 180 ongoing projects under implementation.”* (Interview, ex-World Bank staff). However, the Wapenhans report still finds that supervision is not as important as approval at the World Bank: *“Practices tend to put a premium in recruitment, in formulating work programs, and in promotions on conceptual and planning abilities rather than on practical managerial and implementation experience. There is a widely held staff perception that exposure to appraisal and lending work (feasibly for SALs and SECALs) enhances career development prospects whereas portfolio management experience does not.”* (Wapenhans Report, p. 17). Beyond incentives in terms of staff career development the appraisal focus (as opposed to supervision) is also reflected in resources management: *“even though staff report severe time constraints on project and portfolio performance management, budget analysis shows that managers favor lending when allocating resources and selecting staff for assignments, particularly where there remain opportunities to lend”* (Wapenhans Report, p. 18). As put by Weaver (2007), *“it [is] thus in the implementation phase that borrowing countries retained, and regained, some of their collective autonomy and discretion they had lost to the Bank in earlier phases of the project.”*

The World Bank took measures to disrupt this approval culture and to restore a balance between upstream and downstream work, between project approval and project results. Enhancing Safeguards themselves can be seen as part of these measures. As put by one World Bank staff representing the US Chair: *“Safeguards improved the culture in the Bank. They tried to address incentives problems. I think it improved. Reporting on issues, and elevating the debate is now encouraged. You may see for example a willingness to raise risks ratings and flag problems because you get more resources”* (Interview, US Chair staff). This may not restore the balance between approval and supervision, but it may indeed introduce a better focus on risks in the approval processes. According to World Bank interviews, the World Bank also allegedly increased its resources for implementation: budgetary efforts to restore the balance between approval and supervision are

not easy to find and demonstrate but would also be worth studying in a dedicated study. The Inspection Panel, launched in 1993, also creates more attention onto supervision, as the Inspection Panel reviews compliance at appraisal and supervision, but some would argue that the fear of being “paneled,” i.e., investigated by the Inspection Panel, remains very risk-based, not rights focused: *“When a Task Team Leader comes to us, it’s purely out of interest from the Task Team Leader not to be paneled. And it depends on where the Task Team Leader is working as well. For example, in Uganda, the civil society is more vibrant, you have more risk of being paneled than in Soudan. As a Task Team Leader, you have more risks of being paneled. The culture at the bank is very risk-oriented as opposed to rights-based.”* (Interview, World Bank staff).

Despite efforts undertaken by the World Bank, as explained by Weaver in 2007, this well-known structural problem is still mentioned as a major issue at the World Bank both by World Bank staff and CSOs dedicated to MDBs.

This banking pressure is indeed co-substantiated by many of the interviews I had with World Bank staff in 2018. Promotion can still be perceived as led by the approval performance: *“What they want is to get the money flowing. Between two Task Team Leaders [project leaders], the one who will take his time to be sure that the skills are well assimilated by the client will be the one with whom the money will circulate the least quickly. He will be the one who will be promoted the least quickly. However, most Task Team Leaders [project leaders] want to be promoted”* (Interview, World Bank staff). Similarly, supervision skills or the ability to fix issues in a project that had already been approved can be perceived as less rewarding: *“When you’re a Task Team Leader preparing a project, the pressure level makes it difficult to resist. The incentives are shady. For people who put the projects back on track because there are so many issues, there’s zero recognition.”* (Interview, World Bank staff). The approval culture is still interpreted as having a negative effect on sound project preparation: *“The incentives are not adequate. Everyone focuses on getting projects approved. Getting 100 million or 200 million. Afterwards, the supervision teams face challenges when projects are poorly prepared because the emphasis was on forcing to project approval from the Board. Furthermore, the supervision teams often change, with frequent turnover through the project cycle. The sacred principle of this dynamic is that anything that is poorly prepared*

*will eventually blow up in some way during supervision. The supervision teams have zero incentives, except for the feeling of leading a team of strugglers. At some point, a portion of responsibility or exposure needs to be placed on the preparation team.*” (Interview, World Bank staff). The end of the fiscal year is particularly pointed out as being one where World Bank staff will focus on fastening disbursement: *“If you look at the period towards the end of the fiscal year, you’ll see they are trying to pass projects to spend the money granted by the agreement.”* (Interview, CSO representative). This incentive problem is well-known in all development banks, including bilateral development banks. As put by one interviewee from the French Agency of Development: *“We cannot transform the world if we do not also seek to transform the way we judge performance and incentivize one another.”* (Interview, French Agency of Development staff). However, the banking pressure may be even more important for an MDB like the World Bank, wanting to retain leadership in the development market.

In terms of the organizational nature of the World Bank, most agree that the banking nature of the World Bank is at least an important organizational characteristic. *“We are a development bank but we are still a bank. We need to lend. Supervision is not seen as sexy.”* (Interview, World Bank staff). This perspective is still shared by some academic researchers: *“The Bank has a split personality because it is a Bank and a development institution”* (Interview, Academic), although the academic researchers can also be perceived by their peers as neglecting a bit the banking nature of the World Bank: *“A lot of researchers tend to forget that it is a Bank”* (Interview, Academic). CSOs also confirm the banking nature of the World Bank: *“The Bank is a bank. But when they are doing economic approach, they have to recognize rights. The Nordic Trust Fund<sup>2</sup> has good projects but only tiny bits of money. They represent drops in the bucket.”* (Interview, CSO representative).

Some interviewees go even further to state that the *“development”* aspects of the World Bank are in fact obliterated by its financial nature *“I don’t think the World Bank is a development institution. I think it is a financial institution”* (Interview). This can be

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<sup>2</sup> As described in its progress reports, the Nordic Trust Fund (NTF) was *“a knowledge and learning initiative to help the World Bank develop a more informed view on human rights.”* It was designed to *“improve existing Bank involvement on human rights in the overall context of the World Bank’s core mission of promoting economic growth and poverty reduction”* and *“financial and staff support for the NTF is provided by Denmark, Finland, Iceland, Norway, and Sweden, with additional funding provided by Germany.”* (World Bank Group, 2015).

seen as reflecting a potential inversion of the development rationale and the financial rationale: *“Development should be by the people, through the people and for the people. Sometimes, the rationale for development is backward. Maybe we should first look at what development should be, and then do development projects, not legitimize infrastructure projects by saying they are good for the people.”* (Interview).

The banking nature of the World Bank may entail trade-offs between project approval and E&S risk identification and management related to cost and timing. This brings various stakeholders, in particular E&S staff, to work on a clear rationale to defend E&S commitment as a win-win vis-à-vis banking practices, where most arguments are economic-based, or to explain the costs: *“To convince, we need to talk to the shareholders. It’s good for the environment and for the business. How to convince those guys that they need to take their medication (E&S) to live better? You need to explain the reasons of the costs.”* (Interview, World Bank staff). One economic argument is that the integration of E&S should be economically feasible. Another economic argument is that the integration of E&S should be economically interesting and profitable. While considerations on economic feasibility seem inevitable, one can wonder whether economic profitability should be a systematic argument to defend E&S considerations. For example, one interviewee noted that not all E&S issues can necessarily be justified through an economic-based argument: *“Bank staff may end up thinking that it’s obvious that [human] rights should be taken into account, no matter the underlying rationale that first legitimized them. However, several rights are not so easily defended with economic arguments. For example, assembly, asylum, family rights are not”* (Interview, World Bank staff).

The banking nature of the World Bank is also reflected through a certain divergence of perspectives between economists and bankers on the one side and Safeguards specialists on the other within the World Bank. One interviewee even linked structural adjustment to the preeminence of economists at the World Bank: *“what you got when you left development to economists was structural adjustment”* (Interview, ex-World Bank staff), pointing to the fact that the significance of economic rationales during structural adjustments programs undermined E&S considerations. Another interviewee points to the fact that new staff are focused on banking considerations which thus undermines development considerations: *“There is a series of young staff at the Bank coming from the banking sec-*

tor, not the development sector. Before, the Bank was much more development oriented” (Interview, World Bank staff). While the exact numbers of budgetary increase for human resources is hard to find, this statement does signal the perspective that E&S specialists need to have a critical mass in terms of human resources to complement economists’ perspectives, in addition to the need to convince World Bank staff focused on economic and banking considerations of the importance of E&S.

### ***The World Bank as a development institution: nuancing the banking pressures***

Although the World Bank’s banking nature is an important factor to take into consideration when looking at the negotiation of World Bank responsibility, one needs to also note that the World Bank is not a classic investor for several reasons, as detailed below.

***Securing finances and shareholders’ pressure.*** While commercial banks mainly rely on investment and clients’ deposits, a development bank mainly relies on government finances, even though their source of funding is progressively diversifying. The World Bank does not have the same shareholder pressures as commercial banks. First World Bank shareholders are States, not private entities –they are less clearly exclusively oriented on profitability. For example, IDA lends mostly without profit as “*IDA’s Commitment charge is a variable charge set within a range of 0 - 0.5 percent of the undisbursed balance of IDA’s credits and grants.*” (World Bank website, IDA Financial Products). As such, shareholders are not required to profit from their investment and such concessional credits are oriented towards financial solvency rather than profit. The World Bank may also help mobilize clients through guarantees. For example, “*World Bank credit guarantees (also called loan guarantees) cover the public sector borrower’s debt obligations to private sector investors. The Bank also offers payment guarantees to cover defaults on non-loan related government payment obligations to private entities and foreign public entities arising from contract, law or regulation*” (World Bank website, IBRD Financial Products). State guarantees as a response to the risk of default, also lead to mitigating the risk of default in a way that goes beyond default mitigation measures under projects financed by commercial projects, which also points to key nuances that should be made when discussing banking pressures at the World Bank and banking pressures in private commercial banks.



***Development objectives.*** Development remains at the core of the World Bank development mandate, which tends to nuance the sole objective of profitability commercial banks may focus on.

***Conditional loans.*** While the need to meet certain requirements to access financing is usual, the World Bank conditions are somewhat unprecedented compared to commercial banks. Although the World Bank is apolitical, this has stirred major controversies on the roles and responsibilities of the World Bank. In particular, it is notable that the very first loan of the World Bank (to France, when the World Bank was still financing WWII reconstruction) is already the object of this debate, as explained by Robert L. Garner, then World Bank Vice President: *“It was difficult for [French chief negotiator Wilfrid Baumgartner] to accept our policy to require specific certification as to the precise use to which every dollar of our loan would be applied and the provision of the negative pledge clause. There was no precedent for such requirements and he considered that they were a derogation of the dignity of his country. The requirement for specific designation of the use of all the proceeds meant that every contract for purchase of equipment and materials must be submitted and approved by the staff of the Bank against certified bills of the suppliers.”* (Robert L. Garner, 1961).

***Supervision.*** After approval of the loan, the realization of World Bank development objectives is sustained by the World Bank value-add in terms of client supervision and support. The World Bank is much more present during the supervision cycles than most commercial banks. Indeed, the World Bank supports, advises and monitors its clients in the design and implementation of projects, constituting both a financial resource and a central resource in terms of expertise, in particular E&S expertise, advice and support through due diligence and supervision. The World Bank’s distinctive value add from an E&S point of view is also promoted by CSOs which maintain the pressures to foster E&S standards, although there may be a creeping feeling that the pressure is not as effective as before: *“The World Bank at that time was a focal point of advocacy. Nothing happens at the Bank without outside pressure. The pressure is not as robust now (...) It’s an ongoing fight. The pressure has to be maintained.”* (Interview, CSO). CSOs during the consultation are an important counterforce to banking and meta-organizational pressures during the ESF consultation.

Despite these broad categories of similarities and differences between a development bank and a commercial bank, it should be noted that the distinction between a development bank and a commercial bank is not always clear, as noted by Luna-Martínez & Vicente (2012), two World Bank staff, when they were developing policy research working paper on development banks. As such, in their study, they include institutions like the Banco Nacional de Costa Rica “which sees itself as a development bank but is considered by some observers as a commercial bank because of the scale of their commercial banking operations” (p. 5).

### ***Implications of banking pressures for the World Bank’s responsibility***

Although one needs to be careful when considering the banking pressure of the World Bank, as the World Bank is distinct from a commercial bank in many ways as described above, the World Bank banking pressure still nuances the leverage the World Bank may have on Borrowers, as it introduces the need to foster disbursement. As described in the Figure below, if one takes the same scheme as above to describe each actor’s distinct roles, capacity and leverage, the banking pressure tends to reduce the leverage of World Bank Management in incentivizing the Board to cancel or suspend loans.

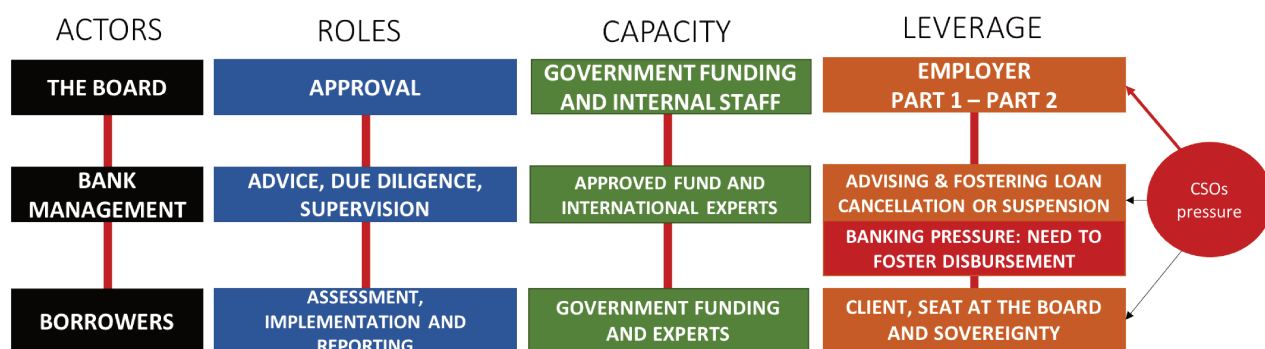


Figure 11: Impacts of the banking pressure on leverage

Both aspects of the World Bank, a bank and a development institution, although some would rather emphasize one or the other, have different implications in terms of responsibility. Indeed, responsibility may not be pictured the same way from the banking perspective and from the development perspective. Although not all responsibility questions can be answered based on the sole distinction of this lens, this distinction introduces

key differences in responsibility frameworks. For example, banking and development lens may imply different answers to the following questions:

- For what is the party responsible? While a development institution is responsible for development impacts, a bank is rather responsible for lending loans, which may have different implications on the negotiations of the World Bank OSER.
- To whom is the party responsible? While a development institution is responsible towards people who are benefiting or being affected by the loan, a bank is rather responsible towards its clients, i.e, in this case, governments. This gives different weights to different stakeholders in negotiating the World Bank OSER.

### ***The ESF consultation embedded in the banking pressure***

The 2012-2016 consultation shows that concerns related to the banking pressures and World Bank incentive structure are at the forefront of the discussions, as several stakeholders, throughout the entire consultation, point to the fact that banking pressures may undermine E&S management and other stakeholders point to the fact that E&S management may undermine timely project approval and implementation.

At the beginning of the E&S Safeguards reform, the right allocation of resources between approval and supervision is already identified as a key issue of concern by IEG, in their 2010 report: *“The World Bank’s systems are front-loaded and have more specific requirements. (...) Without investing in these elements in the right sequence, that is, ensuring enhanced supervision and monitoring with client capacity, disclosure, and verification systems in place, the Performance Standards approach would be a riskier option with respect to environmental and social outcomes.”* (IEG, 2010). During the consultation, approval is shown to be both a key point of discussion, reflecting tensions between banking pressures and the need for strong E&S commitments: *“there is a contradiction between the philosophy of safeguard policies and the Bank’s economic interests”* (Consultation Meeting Summary, CSOs, Romania, Phase 1, March 2013).

In meetings the World Bank seems to respond to these concerns by saying that it has tackled the *“approval culture”* problem and is not sacrificing Safeguards for the sake of disbursement: *“The Bank team noted that the Bank gives safeguard considerations*

*significant weight, inasmuch as sufficient risks will prevent a project from being approved. There have been several cases of projects that have been cancelled or suspended because of safeguard concerns. Internally within the Bank there has been a long process of shifting from an ‘approval’ culture to an ‘appraisal’ culture. One result of this shift has been larger country offices, with more safeguard specialists working closer to project areas.”* (Consultation Meeting Summary, Phase 1, March 2013).

However, typical concerns related to the banking pressures are still raised throughout the consultation. The main recurring idea is that approval is not the sole outcome and should not impede considerations concerning E&S risks. This argument is particularly emphasized by CSOs and Part 1: *“Board approval should not be the objective of the Safeguards reform”* (Consultation Meeting Summary, CSOs, Canada, Phase 2, January 2015). Question as to the World Bank’s actual capacity to stop lending in the context of banking pressures are raised: *“And can/will the Bank stop lending operations if sufficient risks are detected, because there is also the risk that the World Bank and other international financial institutions will keep targeting increased loans and lending portfolios in order to expand their bottom line?”* (Consultation Meeting Summary, Private Sector, Jakarta, Phase 1, March 2013).

Consultation also reflect the strong incentive to discuss E&S issues under an economic lens, in the context of this banking pressure, even though World Bank staff also include caveats on the fact that economic arguments are not the only reason to tackle E&S issues. For example, during the Borrowers’ meeting in Peru, accidents are analyzed through the financial lens and the discussion does not seem to focus on the need to avoid accidents for non-financial reasons: *“Participants inquired if the loss of productivity caused by an accident outweighed the cost of preventing them by providing safety equipment (...) Participants mentioned that ESS 2 and ESS 4 requirements may imply additional costs for the Borrower – for example, the purchase of helmets, safety vests and other equipment. Others thought that savings due to accidents avoided could outweigh the costs.”* (Consultation Meeting Summary, Government, Peru, Phase 3, November 2015). To respond to the argument according to which Safeguards are costly, stakeholders typically argue that Safeguards are cost-effective and win-win arguments are also prominent in this context. For example, comments are made on how including people in projects constitutes a cost-

effective measure: *“The World Bank should support research on the cost-effectiveness of inclusion so that more people can understand how and why communities considered to be vulnerable can also be key contributors to development and aren’t just beneficiaries.”* (Consultation Meeting Summary, Experts, Phase 2, March 2015).

However, consultation would also indicate that there is a strong push, particularly from CSOs, towards considering the World Bank beyond its banking nature, taking into account its specificity as a development institution. During the consultation, participants, and more particularly CSOs, would emphasize the World Bank’s distinct role vis-à-vis commercial banks: *“there was a discussion of the differences between a regular commercial bank’s approaches to and interests in environmental issues and the specifics of the World Bank, which is a development bank that invests both upfront and on a continuous basis in the technical assistance which it provides to borrowers”* (Consultation Meeting Summary, CSOs, Romania, Phase 1, March 2013).

Although the banking pressure, and resistance to banking pressures, including pressures from CSOs, may explain diverging perspectives about the World Bank’s responsibility, it may not explain all divergences. It does not explain divergence at the World Bank’s Board level, or divergence between the World Bank’s Board and World Bank Management. There is a need to have a clear theoretical tool to understand the internal divergent views at the World Bank and how they may be used by Borrowers and CSOs. In this study, I argue that another key organizational characteristic of the World Bank is the fact that it is an MO.

### **3.1.2 The World Bank as a specific MO: MO power, MO members, MO clients**

As mentioned in the literature review, the World Bank can be seen as an MO (Ahrne et al, 2016a). Indeed, the World Bank is an association of States: States members have created the World Bank Articles of Agreement or constitution. Member States also provide the financial base or subscriptions to the World Bank.

### *Specific characteristics of the World Bank as an MO*

Although the World Bank is in line with the key characteristics of MOT, there is a need to look into the specificity of the World Bank as an MO.

First, among IGOs, MDBs like the World Bank are seen as particularly powerful actors, especially because they have the capacity to provide loans to developing countries (Zürn, 2018). This does not contradict Ahrne et al (2016a)'s idea that IGOs are weaker than standard organization theories suggest but should still be taken into account when analyzing the World Bank, as it may not be as weak as other MOs.

The World Bank Management is rather a powerful Management: it has more than 10,000 employees, including staff in direct contact and ongoingly engages with key governmental political figures and decision-makers, and may make proposals to the World Bank's Board. As such, the World Bank is more of an exception in the meta-organizational domain, given that the literature rather points to the weakness of MO Management: *"The authority of the meta-organization's managers is limited, and they rarely have any far-reaching decision-making power. For meta-organizations, visible management is a problem, as it enhances the visibility of the members' loss of autonomy and provides a focal point for resistance. MOT thus suggests that powerful secretariats in IGOs are the exception rather than the rule."* (Ahrne et al., 2016a, p. 10). This may exacerbate meta-organizational tensions shaping OSER definition.

As an organization, the World Bank's power can also be seen as expanding, given the expansion of both its capital and role. It may be seen as characterized by a certain organizational conatus, i.e., as mentioned in the literature review, an innate inclination to continue to exist and enhance itself as an organization. However, the particularity of the World Bank is that this organizational conatus may be in tension with a mission whose ultimate goal is to cease to exist, i.e., complete State ownership of their development (even though, in practice, the current multiplication of sources of lending rather points on the contrary to the increase of lending to developing States). This specific mission is common to all development banks. As put by Peter Woicke, ex-head of the IFC: *"the biggest success of the IFC would be if in 15 or 20 or 25 years the last guy would turn off the lights, and we would be all working with the private sector. That's probably too optimistic. But how do you motivate people to basically work for something which eventually abolishes*

them? I think [it's] one of the challenges, management challenges of the organization, you know.” To this, William Becker replies: “Organizations want to stay in business because they want to remain organizations” (Peter Woicke, World Bank Oral History). While this is a conversation about the IFC (which as explained is part of the World Bank Group, not the World Bank), this statement also applies to the World Bank, given both organizations are MO with similar mandates.

Furthermore, being an IGO, the World Bank has particularly autonomous members for an MO, because its members are sovereign States. This also introduces a tension with the organizational conatus.

Although members are particularly powerful, the World Bank is also well established, and while it may experience threats that are relative to typical MO threat, it is notable that members may have a reduced degree of autonomy when it comes to the World Bank than when it comes to other MOs: for example, while, as mentioned in the literature review, it is not an option for the World Bank to expel members, it is also likely that exiting the World Bank would be seen as very costly for its members.

In MDBs like the World Bank, as already mentioned above, there should be a dual analysis of the MO members, reflected by the standard distinction made by the World Bank staff: “Part 1,” non-Borrowing members, and “Part 2,” Borrowing members.

Part 2 members are also the World Bank clients. Although MOT mentions that MO members can simultaneously be owners and clients of the MO (Bor, 2014), this is not the case of every MO. For example, some MOs like the IFC (private arm of the World Bank Group) also lend money to the private sector and not to States: in those cases, MO members are not MO clients. Having MO members that also are MO clients like the World Bank introduces a tension in decision-making processes: if the World Bank’s Board and Staff have a financial influence over Borrowing States, Borrowing States also have the power to overthrow World Bank staff decisions as long as they can influence the collegial structure of the World Bank’s Board.

## ***Enhanced MO pressure at the World Bank: from Board importance to Board conflicts***

As put by Rainer Steckhan, the World Bank's Board is both powerful and unique: *"This is a very special Board, a very powerful Board. This is a Board with dual functions [i.e. Board Directors are both countries representatives and World Bank's Board Directors]. This is a Board that changes quite quickly for the majority of the Directors. This is a Board that is mostly composed of public civil service types and is usually facing a president who comes from the private sector with a completely different notion of what 'Board' means in English."* (Rainer Stekhan, Oral History).

The interviews I did with World Bank staff co-substantiate the importance of the Board, as stakeholders give prominence to Board decision making, and underline the need to take into account Board perspectives in World Bank negotiations: *"If the Board does not believe in it, then nothing happens and there is no resource (financial and technical capacity)."* (Interview, World Bank staff). The World Bank Management is constrained by the Board, at least in so far as the Board approves where to allocate fund. As such, while the World Bank's responsibility is under the radar, a staff working with US Chair also stated that *"the Board should also talk about responsibilities. If something goes bad, the Board is also responsible"* (Interview, US Chair staff).

However, Board power has its limits. The World Bank's Board is a powerful decision-making body, but it makes its decisions mostly based on reaction to World Bank Management proposals. It is not a clear and direct force of proposition. In these decision-making processes and as emphasized by PAT described in this study's literature review, one has to take into account the important information asymmetry between World Bank Management and the Board (project supervision is conducted by World Bank Management and the Board reacts to information given by World Bank Management). This asymmetry is exacerbated by the fact Board members representatives have temporary positions (usually, Directors are appointed for 5 years at the Board, as opposed to World Bank Staff who may work the World Bank for more than 30 years). Nonetheless, one still needs to be nuanced on the effect of such information asymmetry. Even if this information asymmetry may give World Bank Management more leeway to make decisions on the question of OSER, thus facilitating the promotion of World Bank Management perspectives with



the Board, it may also complicate the relationship between the Board and the World Bank, thus complicating the promotion of World Bank Management perspectives with the Board. As mentioned by a staff working with the US Board Chair, “*We the chairs do not necessarily trust what the operations are going to do. The US Congress wants to know about how the money is used. (...) there are massive information asymmetries. The relation between the Board and Management should be a partnership.*” (Interview, US Chair staff). Interviews also signal that the Board may not only orient the discussion on the World Bank responsibility, but be a responsible party itself. Indeed, “*Directors are more in the Bank than just representatives of sovereign states, they are also Directors of the World Bank and, as such, have the responsibility to respect the Charter and perform duties that are outlined in the Charter.*” (World Bank Oral History, Steckhan, 1985). This may point to the fact that Board members are both seen as outsiders and insiders, reflecting meta-organizational characteristics.

However, one has to note that the importance of Board buy-in, the Board information asymmetry and the question of Board responsibility are all questions that remain in non-MO structures. For example, when talking to a representative of the French Agency of Development, a bilateral (as opposed to multilateral) development bank, and therefore not an MO, relationship between World Bank Management and the Board was also the object of extensive discussion around the type of information World Bank Management should bring to the Board, and the way the Board should react when reviewing projects for approval. One needs to look at the specific challenges MOs trigger for the organization. In this study, I argue that the meta-organizational nature of the World Bank is particularly reflected by the fact that it creates additional conflicts exacerbating the sensitivities of the ESF consultation given Board members have divergent opinions, as substantiated by interviews statements on Board divergence and the difficulty to reconcile Board positions: “*you have two schools: prescriptive and more flexible. The US is one of the most prescriptive country of the Board (...) the Bank sometimes can be a big dumb democracy*” (Interview, US Chair staff). The meta-organizational pressure is first and foremost signaled by the fact that World Bank Management is torn between different contradictory injunctions, which can give an impression of abstract polarized debates during World Bank negotiations: “*The Bank is too big, too distant, too politicized.*” (Interview, CSOs representative). Indeed, if contradictory injunctions are so pressuring at the World

Bank, it is precisely because of its paradoxical meta-organizational nature: as an MO, its members are pulling the World Bank in different directions, but as an organization, it needs to keep the organic nature of the organization and thrive towards maintaining and enhancing itself as an organization. The organizational conatus combined with conflicting Board members is the essence of the meta-organizational paradox (Ahrne et al., 2016a) at the World Bank, which therefore requires a careful review of the World Bank's Board dynamics.

### ***Power play and positions at the World Bank's Board***

The World Bank meta-organizational pressure cannot be analyzed without understanding the power dynamics at the Board level. At the World Bank, Board members voting power is proportional to Board members financial contributions, thus favoring big countries over small countries. One needs to note that Board members are organized by constituencies: the US, Japan, China, Germany, United Kingdom and France, that is to say mostly Part 1, have their own appointed representative. Within Part 2, Saudi Arabia has an elected representative for Saudi Arabia only. Otherwise, constituencies are organized by voting groups, and elect the representatives for the group. Some constituencies include both Part 1 and Part 2. When they do, Part 1 often have a significant amount of shares compared to the rest of the Group. Voting groups do not represent the same amounts of countries and the nature of the voting group may also reflect the geopolitical dynamics and countries power: the group with the least countries is constituted of 2 countries (Russia and Syria) and the group with the most countries is constituted of 22 countries (for West African countries). In a group of 22 countries, it may not be as easy to hear one country's voice as in a group of 2.

This disparity of Board members power is also demonstrated through countries voting power. The below table shows the evolution of Board countries voting power between 1947 and 2016 (the year when the Board approved the ESF). As this table is only meant to illustrate the type of voting distribution, it does not list exhaustively all the countries between 0 and 5%. It shows how the voting structure of the World Bank favors big countries.

Table 7: Examples of World Bank’s Board Members voting power in 1947 and 2016

| Voting Power        | IN 1947 (IBRD)                              | IN 2016 (IBRD and IDA)   |
|---------------------|---|--|
| Less than 0,3%      | Bolivia                                     | Afghanistan, Albania, Armenia, Bolivia, Botswana, Chad, Estonia, Nepal, Greece   |
| Between 0,3% and 1% | Chile, Denmark, Greece, Mexico, Colombia    | Algeria, Angola, Austria, Bangladesh, Cameroon, Colombia, Denmark,   |
| Between 1% and 3%   | Belgium, Brazil, Canada, India, Netherlands | Argentina, Belgium, Brazil, Italy, Korea, Mexico, Netherlands, India, Russia,  |
| Between 3% and 10%  | France, China (7% at IBRD) <sup>3</sup>     | China (5% at IBRD, 2% at IDA), Japan (7% at IBRD, 8% at IDA), UK (4% at IBRD, 6% at IDA), Germany (4% at IBRD, 5% at IDA), France (4% at IBRD and IDA) |
| More than 10%       | US (35% at IBRD)                            | US (17% at IBRD, 10% at IDA) <sup>4</sup>  |

*Source: IDA and IBRD Country Voting Table 2016 (World Bank, 2016a, World Bank, 2016b) and The World Bank since Bretton Woods, Appendix C (Mason & Asher, 1973)*

The US has been the primary force throughout most of the World Bank history and the US has pushed for various World Bank reforms. One has to note that is often in coordination with global CSOs, putting pressure on the US as representative of the US Chair constituents. For example, amidst a transnational social movement and key internal reports described by Shihata (2000) and Schettler (2020), the Inspection Panel was created as it became a condition imposed on World Bank Management by the US Congress, when the Budget Commission in US Congress dedicated to voting IDA’s fund “*threatened to hold up the IDA money*” (Herfkens, 1994, p. 15), which resulted from a wide CSO transnational movement linked to the World Bank Narmada project and described in the Introduction. Similarly, the Pelosi amendment demonstrates the importance of the US at the Board level: in 1989, the US Congress passed legislation that included a provision known as the “*Pelosi Amendment*” requiring U.S. Executive Directors at the World Bank and all the regional MDBs to abstain or vote against any proposed action with significant environmental effects if it had not received an appropriate environmental assessment, or if the assessment had not been available to the Executive Directors and the public for 120 days before the vote. When asking what the US interest was in

<sup>3</sup> Rounded to the nearest wholes

<sup>4</sup> Rounded to the nearest wholes

leveraging development financing for E&S issues, CSOs argued that it very much depends on the individual running the Committee approving IDA funds: *“Barney Frank was a human rights activist. He was a believer. He controlled the committee approving the money. The World Bank is not at the top of the Congress concern. That’s why there it depends so much on the committee itself and the individual running it. It’s possible to hold up the legislature.”* (CSOs staff, Interview). Additionally, beyond individual preferences, certain if not all standards CSOs are promoting are more established in Part 1 countries at the national framework level, which may facilitate their promotion at the policy and frameworks level in the World Bank. Other discussions with interviewees led to opening other possible and non-mutually exclusive explanations: the US may have a relative sensitivity to reputational issues related to Human Rights, given IBRD/IDA funds are financed through taxpayers’ money. For example, a staff working at the US Chair maintained that there was a huge societal pressure on the US Chair compared to other Board members: *“The vast majority of cases are successful. But some projects are really bad, and those are what mark constituents’ minds. The US is the only shareholder with an independent legislature. The Congress is very independent from the executive branch. That is why the US is such a strong advocate of transparency. There is a need for transparency, accountability. The US is the only shareholders issuing statements. They engage with society. I’ve never understood why Europeans were engaging so little with their own society. They don’t feel the pressure the way we do.”* (Interview, US Chair staff). The US could also use the promotion for more stringent requirements to promote US firms in emerging markets, considering US companies are more advanced on environmental issues. On this point, interestingly, one may find how procurement interests in Part 1 countries (opening the market for Part 1 enterprises) may align with the promotion of high standards with the following comment made in Partis, during a private sector meeting: *“The current [Industry Classification Benchmark] ICB regime also works against innovation in social and environmental management. Small and medium enterprises (SMEs) with strong innovative solutions generally find the due diligence costs of current requirements a barrier to entry. At the same time, even large industry leaders with innovative products (e.g., solar-powered hand-pumps) find that current requirements lower the barrier to ‘unfair competition’ from companies that offer less effective solutions at lower costs. The Bank should aim for the highest technical quality, as IFC and MIGA*

do. (...) Currently, lowest cost bids are favored, rather than the most effective or cost-effective proposals. Social and environmental standards need to be integrated into the bidding documents.” (Consultation Meeting Summary, Private Sector, Paris, Phase 1, December 2012). While there would be a need to have a more detailed study on the US interest concerning E&S issues at the World Bank, the fact remains that the US has exercised tremendous influence on E&S issues at the World Bank throughout the years.

However, the US has significantly lost its voting power supremacy (from 35% to 16%). The US current voting power is not enough to overrule other Board members, but it is enough if there is a coalition of Part 1 States, including the US and European countries. As such, as opposed to many MDBs, the World Bank is seen as being a donor driver bank (Murphy, 2004). In practice, as mentioned by one interviewee, and although it is not representative of an in-depth analysis of the US propensity to exercise its power, the US may be seen as reluctant to exercise its voting power against Part 2 countries (Interview, World Bank Staff), who represent the voice of the World Bank Borrowing countries, and rather echo client concern than CSOs concerns.

Important decisions such as the ESF within the Board require Board unanimity leading to intense negotiations before Board meetings.

### ***Implication of MO pressure on the World Bank responsibility***

The meta-organizational nature of the World Bank is an important organizational characteristic to understanding how responsibility is negotiated at the World Bank. As described in the Figure below, if one takes the same scheme as above to describe each actors' distinct roles, capacity and leverage, the MO pressure tends to reduce the leverage of World Bank Management as it sends diverse contradictory signals and injunctions to World Bank Management. In other words, the World Bank leverage is made of many contradictory pressures, and any advice or proposal given to the Board has to take these contradictions into account, rendering any initiatives from World Bank Management and any decisions from the Board more complex.

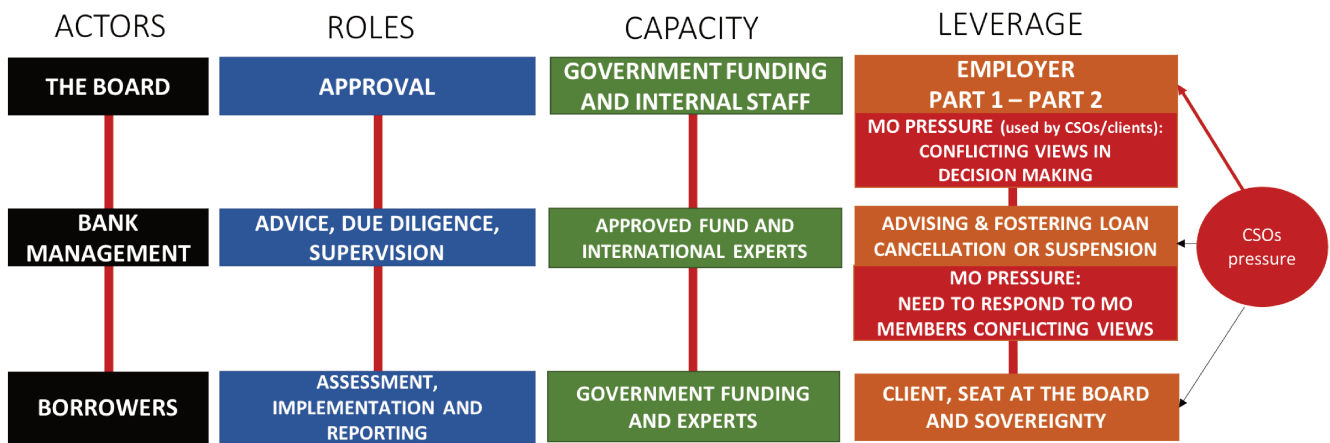


Figure 12: Impact of the MO pressure on the World Bank leverage

The Board members’ conflicting views may be considered as an additional pressure in the World Bank chain of responsibility, given World Bank Management has to take into account diverging perspectives to please its Board, and World Bank Management’s leverage is therefore shaped by MO pressure.

Although not all responsibility questions can be answered based on the fact that the World Bank is an MO, this MO pressure may have different implications in terms of responsibility.

Examples of how the MO pressure may be reflected in answers provided on key OSER questions include:

- *Responsible for what?* As government representatives, especially in democracies, governments may at least on paper be interested in the general interest, even though several dimensions (economical, geopolitical) may need to be factored in to understand how the narrative on the general interest is shaped. Each Board member is also defending their own country’s interests, and one cannot ignore the geopolitical goals of Board members when analyzing responsibility definition and negotiation. The below analysis of how the ESF consultation was embedded in such an organizational context exemplifies some of these geopolitical goals.
- *To whom is the party responsible?* While a development institution is responsible towards people who are benefiting or being affected by the loan, a bank is rather

responsible towards its clients, i.e., in this case, governments. This gives different weights to different stakeholders in negotiating the World Bank OSER.

### ***The ESF consultation embedded in the MO power play***

The ESF negotiation is shaped by this MO context and associated power play.

It is clear that the World Bank absolutely needs the Board buy in for the ESF to be effective. This is clarified by the World Bank Staff throughout all the phases of the consultation. This is already emphasized in Phase 1: *“While today we will give you a summary of what we heard and we will hear back from you, bear with us—bear with my colleagues—if we cannot give you really specific commitments today as to how we are going to change or what we are going to do because that is something that we need to collectively think a little bit more about, go to our Board and tell them where we are, and then begin to flesh out because our Board is really the authorizing environment for any specific changes that we make.”* (Kyle Peters, Vice President for OPCS, Transcript, Phase 1, April 2013).

The Board is the ultimate decision body when it comes to the ESF trade-offs: *“What we are going to try to do is be transparent. But in the end, as my colleague, Kyle Peters, said, we are going to have a board meeting to weigh tradeoffs, and I hope we get the best balance possible.”* (Transcript: Statement by Stephen Lintner, World Bank Senior Technical Adviser on E&S issues, Phase 1, April 2013). Any compromise that may further be done on the policy would need to be the object of Board approval: *“So it’s clear that this stage is not very easy because we’re trying to reconcile positions that are often very different, and it goes without saying that, particularly on the very emotive issues, people have strongly held view that are not easy to reconcile, but our job at the end is to produce a proposal to our Board that is acceptable in a multilateral institution. And I think that’s needs stressing and is very important. Nothing can be done at the World Bank unless you get support from a broad group of shareholders at the Board”* (Stefan Koeberle, World Bank Director for Strategy, Risk and Results, OPCS, Transcript, Phase 2, 2015 Spring Meetings CSOs Forum).

The question of responsibility sharing between World Bank Management and World Bank’s Board is also a crucial point raised during the consultation: *“Clarify who is responsible for final decision on the framework. Is it the Board?”* (Meeting summary,

CSOs, Phase 2, Lebanon, November 2014). Board importance is reiterated both by CSOs and Governments although non-Borrowing countries may also emphasize the limits of the Board's power, especially after approval and during implementation: *“Board scrutiny is missing during project implementation, shareholders must be able to trust the World Bank. That requires adequate resources for monitoring, supervision, and oversight. Consultation participants expressed concern that these activities are not a primary motivation for World Bank staff, who need more incentives for monitoring and supervision rather than for closing on loans”* (Meeting summary, Governments, Phase 2, Canada, January 2015). The consultation also exemplified the information asymmetry between World Bank Management and the Board. First, the full Board discussion only happened at the end of the consultation. Board discussions during the consultation were restricted to CODE members, leading to certain critiques from consultation participants: *“It is regrettable that a full Bank board discussion will only take place at the very end of the review process. The process should be opened up and the viewpoints of non-CODE members and the full Board should be formally integrated at an early stage. These views in themselves should be subject to consultation.”* (Meeting summary, MS, Phase 1, Belgium, March 2013).

The difficulty of Board decision due to Board conflict is also emphasized during the consultation: *“And if I say I was involved three or four years ago, you can imagine, I mean, this is a process that has been going on for a long, long time. But I think, if you want to get it right, this is the time that it takes because for us in the Bank, it means we have to get on board 188 shareholders.”* (Hartwig Schafer, World Bank Vice President for OPCS, Transcript, CSOs Forum, October 2015).

Each stakeholder group uses the Board to promote their viewpoints. CSOs confirmed this strategy through interviews. For example, as put by a CSO representative, *“we do a lot of bilateral meetings. We first need to educate the representatives. We need to take into account government peculiarities. Executive Directors are quite strong.”* (Interview, CSO representative). While more disruptive movements would happen such as interruption of meetings (as described in the Consultation Meeting Summary, CSOs, India, Phase 1, April 2013), or even a walk out from main CSOs representatives in 2014 (as described in Schettler, 2020), such types of movements were marginal and CSOs mostly used the



publication of reports in relation to World Bank projects as well as Board members as a pressure means for the World Bank.

Borrowers, on the other side, explicitly use the fact that they are both clients and Board members to influence the negotiation: *“Egypt is a member of the Bank Board of Executive Directors and we hope that dialogue between the Egyptian Government and the Bank takes place to review the country’s environmental policy and bridge any gaps between the policies and the Bank’s Safeguards.”* (Summary Consultation, Government, Egypt, Phase 1). This is particularly powerful argument with China, as the third largest shareholder of the Bank: *“China is not only a borrower, but also the third largest shareholder of the Bank. It is a key emerging donor. China is well-positioned to play a constructive role in the Bank”* (Summary Consultation, Government, China, Phase 3, October 2015). Several Board members have also issued submissions during each phase. Although this is not the case for all Board members, these submissions reflect how members and client status are used during the consultation. For example, Mr. Subhash Chandra Garg, Executive Director for Bangladesh, Bhutan, India and Sri Lanka underlines the coalition of Board members pushing back against the new ESF: *“A statement by seven chairs, representing the clients, was issued which highlighted a number of areas, especially where the second draft moves away from the first, and which make many provisions more complex with likelihood of creating difficulties for the clients.”* (Statement by Mr. Subhash Chandra Garg, Executive Director for Bangladesh, Bhutan, India and Sri Lanka, 24 June and 1 July, 2015 on ESF).

Throughout the consultation, Borrowers’ positions tend to be reflected in Part 2 Board Members statements and CSOs’ positions tend to be reflected in Part 1 Board Members statements. The meta-organizational pressure may evolve with the evolving power of their members, i.e., the evolving environment of the World Bank, thus shaping the way responsibility is negotiated. It is therefore important to understand the context of (at least perceived) enhanced competition in which the World Bank conducted the ESF consultation. In this sub-section, I have characterized the World Bank MO pressure as well as its implication on OSER negotiations and during the ESF consultation. In the next sub-section, I show how the banking pressure and MO pressure are exacerbated by competitive pressure in the World Bank environment.

### 3.1.3 Competition: evolving environment exacerbating banking and meta-organizational pressures

Competition is key to understanding the way organizational pressures evolve within the World Bank. Having access to other sources of finance increases MO members' autonomy (thus increasing MO pressure) and clients' autonomy (thus increasing banking pressure). As such, the banking pressures and meta-organizational tensions are exacerbated in the context of enhanced competition, even in a powerful organization like the World Bank.

#### *Competition in the World Bank environment: early days and recent context*

One has to note that the competition is not exactly new: *“Today, we see Borrower using their bargaining power. If you don't like it, we'll go to the Chinese. The institutions, because it goes far beyond the World Bank, the whole official system, is obviously captive of this kind of stuff. However, we can also have historical examples. Don't forget that until 1991, this was one of the most effective arguments of many countries, including the DRC (Zaire at the time) which was shamelessly blackmailing. ‘If you don't get what we want, we'll go to the Russians.’ It's as simple as that. Geopolitics at that time played an absolutely considerable role formally and informally.”* (Interview, ex-World Bank staff).

However, the concern around competition is increasing due to the development of financial institutions, but also new types of States and private investments in emerging markets and developing economies.

Indeed, the increasing diversity of practices in development aid leads to competition, or at least perceived competition, between sources of finance, stemming from IGOs, International development banks, the private sector. This has been especially instrumentalized by powerful Part 2 Board members. China has developed a contestation strategy through counter-institutionalization of development aid (Dann & Riegner, 2019), by participating in the creation of the China Development Bank in 1994, the AIIB in 2014 (headquarters in Beijing) and the NDB in 2015 (headquarters in Shanghai). Beyond the multiplication of investments and sources of investments, this increase can also be measured when looking at the importance of investments in developing countries. For example, one interviewee mentioned the fact that the first deal he witnessed in Africa was in the 80s and there was a steep acceleration since then: *“It was a fast-paced process. In 2004-2005, I was recruited*

by the Bank for a mission in Angola, which had just concluded negotiations with the whole consultative apparatus, in order to get 150 million dollars for health and education. A few days later they had signed a contract with the Chinese for 2 and a half billion dollars on oil, committing the oil for the next three years.” (Interview, World Bank staff). Several deals in Angola were concluded at this time through China Eximbank US\$2 billion line of credit in 2004, US\$2 billion loan in exchange for oil in 2005 and one additional billion in 2006, US\$2.5 billion line of credit in 2007. Studies on the evolution of foreign direct investments from China confirm this trend: the country’s annual foreign direct investments grew tremendously between the 1980s (starting in 1979, with the Chinese open-door policy) and throughout the 21st century. For example, mention that China’s trade in Africa increased from US\$3 billion in 1995 to US\$55 billion in 2006.

***Nuancing the World Bank competitive environment: true risks, perceived risks, instrumentalized risks***

One can qualify the competition the World Bank is facing: first, as underlined by an interviewee, development banks share their experts when drafting safeguard policies and the AIIB and NDB committed to conducting various joint projects, in which case the two institutions adopt policies and procedures, including E&S Safeguards, in agreement with the other institutions that participated in financing the loan. Often, development banks like the AIIB or the NDB do not have the largest share of this co-financing and therefore do not have much room for negotiation with regard to the adoption of these safeguard policies. To this extent, one might think that they have more of a financial support role than a leadership role in development assistance for the moment. This is line with Jim Kim response to the creation of the AIIB in 2014, in the middle of the ESF negotiations: “*we welcome any new organizations. We think the need for new investment infrastructure is massive*” (public statement quoted in Reuters, 2014). This position in late 2014 contrasts with the US’s initial argument to ask countries not to join the AIIB, stating that this would imply a lowering of E&S standards for the development world.

The competition may be fiercer with sovereign banks and private banks which may not share common E&S requirements and due diligence processes as Development Financial Institutions, but private banks are very much driven by the Equators’ Principles standards related to the IFC, and sovereign banks are also progressively adopting regulations,

although there would be a need for a distinct study on the current status of regulations in private and sovereign banks, especially investments coming from Part 2 countries, in order to compare various sets of standards between Part 1 and Part 2 in development finance.

On the one hand, there seems to be a shared understanding that emerging money comes with less interference and requirements. As described by Adisu et al. (2010), *“according to This Day (2005), the Chinese are not imposing the neo-liberal package of reform usually required by the World Bank under its “conditionality provisions.” Chinese aid by contrast comes without strings attached and is seen as supporting initiatives by African states to address development issues not solved by Western investment”* (p. 4).

On the other hand, interviewees depict a particularly complex and nuanced reality when it comes to judging the level of standards from sovereign investment: *“It is clear that the norms and standards are not the same and this happens quite regularly: you have project owners who say “oh well, I’ll take the loan from the Chinese Development Bank because they are not going to bother me on environmental and social issues in the same way as the World Bank would.” Nevertheless, it is much more complex as always with this kind of subject. We have seen projects from the Chinese development bank that are completely up to standard. For example, within China itself. We financed Chinese railroads for a long time and we realized that there were several types of standards, depending on whether you are on an exposed network, and that’s even what it’s called, typically a Beijing-Shanghai line, which is a line that must be up to the standards as in the West, and moreover, a large proportion of the parts that came directly from imports”* (Interview, French Development Agency staff).

There would also be a need to study in more detail the actual willingness to go to China for investments rather than the World Bank and the actual perception of Chinese investments in emerging markets. For example, when interviewing a World Bank staff working in Africa, it seemed like China investment would be met with more vigilance now than 10 years ago: *“I have not been in a project where they say: we don’t want to do this with the World Bank because we are demanding too much. But the reality is that the Chinese would be less demanding. Nevertheless, in Angola, this issue is very problematic. Angola owes a lot of money to the Chinese at the moment. More than 30 billion dollars.*

*Angola pays with oil. Now that the oil prices have gone that, they have to give more oil. They started to realize that going to other sources of money may also bring challenges.”* (Interview, World Bank staff).

Nonetheless, the World Bank external environment involves more financial players, which can be the source of concerns, whether these risks associated with competition are true, perceived or instrumentalized during negotiations. One notes that beyond the depth of the actual competition/coordination on OSER among the increasing number of financing institutions which may fund development projects, the perceived competition has a direct impact on World Bank staff perception of their leverage. There seems to be a shared understanding among the top leadership, and leaders from outside the institution, that the World Bank has less leeway to negotiate requirements. For example, Peter Woicke, previous head of the IFC, argues that the level of conditionalities may drop due to this competition: *“And that’s a little bit real what I think the IBRD [International Bank for Reconstruction and Development] is facing today where the mid-income countries - the Russias, the Chinas, the Indias - basically have access to the market. The sovereign governments, they don’t want to borrow necessarily anymore from the Bank, and rather than saying, ‘Let’s declare victory,’ the Bank is now, ‘Oh, we can lend cheap money to you, and let’s reduce the conditionalities.’ It’s this phenomenon, you know.”* (Peter Woicke, World Bank Oral History). My interviews with representatives of the Academia also indicated that such perception exist in the Academia: *“People sometimes are trying their best, but the World Bank cannot do everything, and Borrowers might go from one MDBs to another.”* (Interview, Academic). One has to note the lack-of-leverage argument can also be instrumentalized by stakeholders which are less prone to defending the rise of E&S requirements in the first place. Indeed, from a perspective where E&S requirements should not increase, the lack-of-leverage argument comes as a very practical narrative to pushback against these requirements.

### ***Implications of the World Bank evolving environment on responsibility***

When there is a shared understanding, especially among the World Bank leadership and Board/Borrowers leadership that competition is becoming fiercer and money is more accessible from various impacts, it has an impact on the way the World Bank may decide to exercise its leverage or not to promote E&S requirements. Indeed, given that the

World Bank is perceived as having stringent E&S rules compared to many other donors, even if this is part of the way the World Bank value added is promoted, World Bank staff may be more reluctant to promote and insist on stringent and constraining E&S norms, and clients may also threaten to go elsewhere and influence the Board towards minimizing constraints, as described in the Figure 13 below.

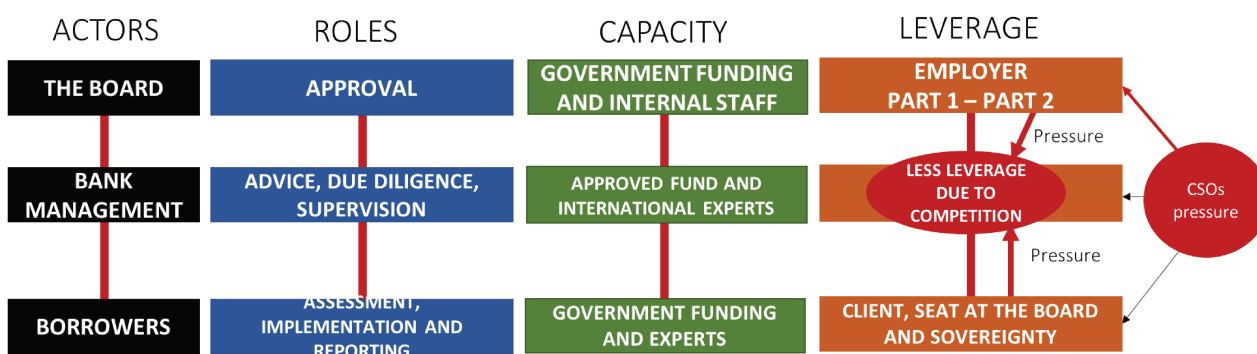


Figure 13: Impact of competition on the World Bank leverage

In the context of heightened competition, World Bank Management, but also Part 1, may also be less ready to threaten clients to disengage, especially powerful clients who have access to a wide series of alternative sources of funding and a powerful seat at the Board.

As opposed to powerful countries, one also needs to underline fragile countries are both the ones that are the least prepared to implement requirements and that have the least resources to pushback against requirements (both in terms of other available financial resources and in terms of meta-organizational power at the Board level). This raises questions there as well as to the types of requirements that can and should be applied to less powerful clients: *“I don’t think the Bank should bang the table saying you must do this and that. Countries can go to other places. Not FCVs. But it would be preposterous to use that to say: we cannot require as much from Mexico as from FCVs countries.”* (Interview, World Bank staff).

***The results of the World Bank competitive environment: reflecting the banking and meta-organizational pressures***

This dynamic linked to the World Bank environment reflects both the banking pressure and MO pressure. First, it reflects the banking pressure, as concerns revolve around putting the World Bank “out of business” if the World Bank’s requirements may lead to

clients going elsewhere: *“If the Bank tries to impose things on some countries that are not a priority, it will put us out of business.”* (Interview, World Bank staff). Second, this also reflects the meta-organizational pressure, as clients’ threat to find other lenders is channeled through Board members who are also Borrowers, thus exacerbating the tensions at the Board level. From that perspective, external pressure from clients, i.e., the banking pressure, is internalized through the Board, as a cause and consequence of the meta-organizational pressure. This is very much at the heart of meta-organizational pressures: external organizations, which have their distinct autonomy, are also internal actors, somewhat both important for and dependent of the meta-organization.

***The ESF consultation embedded in the evolving environment exacerbating banking and meta-organizational pressures during the consultation***

The perception that competition is rising within the World Bank environment leads to changing the dynamics shaping the definition of OSER. This is particularly relevant in the context of the ESF consultation as the AIIB was created in 2014 and the NDB was created in 2015, in the middle of the ESF consultation period.

Some statements do nuance the influence of the competitive environment of the World Bank as a determining factor. For example, during Phase 1, Development Partners in Sri Lanka stated that: *“Even the large/new donors are now developing various safeguard criteria during project design/implementation; over time these will become established policies that recipient countries will have to adopt/adhere to”* (Summary Consultation, Development Partners, Sri Lanka, Phase 1, April 2013). This is also emphasized by the World Bank representatives during the consultation: *“So contrary to what you’ve often heard in the press, there isn’t a race to the bottom, it’s the exact opposite. AIIB is looking very carefully at what we’re doing here and we’d like to think that when the policy is adopted, it will really set the standard that then other development banks, including AIIB, can then follow.”* (Stefan Koeberle, World Bank Director for Strategy, Risk and Results, OPCS, Transcript, CSOs forum, Phase 2). CSOs tend to agree with the fact that the Safeguards are rather a rising tide lifting all boats rather than a race to the bottom: *“it’s the broader range of development banking around the world, commercial banks, as we’ve seen over time the reflection into equator principles and so forth and, ultimately and most importantly, the countries themselves around the world as they raise their own standards,*

*their own rules and regulations with respect to all of these standards.*” (David McCauley, WWF, CSOs forum, Phase 2).

However, the issue is still a crucial topic of concern throughout the consultation. Borrowing States use the competitive environment of the World Bank as an argument to pushback against E&S norms during the negotiation at the Board level, especially as the Safeguards is presented by World Bank staff as the opportunity to strengthen partnership with clients: *“[the Safeguards] must result in a new integrated framework meant to lay the solid foundations of a revitalized and strengthened partnership with borrowers”* (Summary Consultation, Government, Côte d’Ivoire, Phase 1, March 2013). A few examples of Governments pushing back including participants of the Government meeting in Turkey: *“Clients may go elsewhere if requirements are too onerous. For projects with less risk than Category A, greater flexibility is needed.”* (Summary Consultation, Government, Turkey, Phase 2, October 2014). This is similar to arguments raised in Indonesia, pointing specifically to the options provided by the BRICs and AIIB: *“A participant noted that the Indonesian government will resort to other MDBs, especially with the emergence of two new MDBs, namely the AIIB and the BRICS, if the new framework is too stringent”* (Summary Consultation, Government, Indonesia, Phase 2, December 2014). Such comments are also channeled during Phase 3, for example: *“With all the added complex requirements there is a risk of the Bank becoming uncompetitive in the MFIs circuit compared to the Asian Infrastructure and Investment Bank as well as the New Development Bank. This should be considered.”* (Summary Consultation, Government, South Africa, Phase 3, November 2015)

There are still rare examples of Government comments reassuring the World Bank on lending competition, like statements made in Governments meeting in India during Phase 3: *“While some tough comments were made, the country reconfirms that the Bank continues to be their preferred long-term partner for development.”* (Summary Consultation, Governments, India, Phase 3, November 2015). However, it is not clear that this is a streamlined official position considering the statements of the E.D. representing India during Phase 2 rather points to the cost of doing business with the World Bank: *“the second draft of the Environment and Social Framework is a disappointment for the borrowers and other developing country clients as the proposed environment and social standards*



*(ESS) make doing business with the Bank more and more difficult and costly for the borrowers. (...) If we go ahead with this kind of imposition of standards, the Bank is likely to go out of business.*” (Statement made by Mr. Subhash Chandra Garg, Executive Director for Bangladesh, Bhutan, India and Sri Lanka, 24 June and 1 July, 2015 on ESF).

The worry concerning the evolving environment of the World Bank is also conveyed by other stakeholders, including experts: *“countries may turn to other multilateral institutions or donors with fewer Safeguards requirements.”* (Summary Consultation, Experts, Paraguay, Phase 2, November 2015). This is also concerning for public development partners: *“This might discourage donors from executing projects in partnership with the World Bank”* (Summary Consultation, Development Partners, Mexico, Phase 1, April 2013). Non-Borrowing States also have similar worries. For example, in Switzerland, participants state that *“Clarification was sought on the extent to which these new ‘high’ standards may make the Bank less competitive as a financing option, compared to, e.g., the BRICs bank for financing infrastructure in developing countries. This issue is not only relevant for the Bank but also for contractors, e.g., a Swiss infrastructure company”* (Summary Consultation, Government, Switzerland, Phase 2, December 2014). CSOs in Part 2 countries also seem to underline this challenge, even though low credence is attributed to this comment, as it does not represent a clear pattern in the consultation meetings summary: *“Investors sometimes resist doing more than the law requires, and there’s a risk of investors going to other funding sources rather than undertaking incremental actions, such as consultations, that are required by the Bank.”* (Summary Consultation, CSOs, Turkey, Phase 2, October 2014).

Non-Borrowing States and CSOs mostly react to such threats and concerns by re-emphasizing the need to promote strong World Bank requirements: *“The U.S. recognizes – and welcomes – the changing development assistance architecture in which the Bank operates, with a variety of new actors and modalities for lending. It is critical that the Bank maintains its strong safeguard standards in all its programming, including when it is engaged in lending operations that involve other development partners.”* (Statement from Mr. Matthew T. McGuire, Executive Director for the US, Phase 3, July 2015). Similarly, CSOs raise concerns regarding the potential lowering of standards due to competition concerns: *“Participants questioned whether the review process was motivated by the emer-*

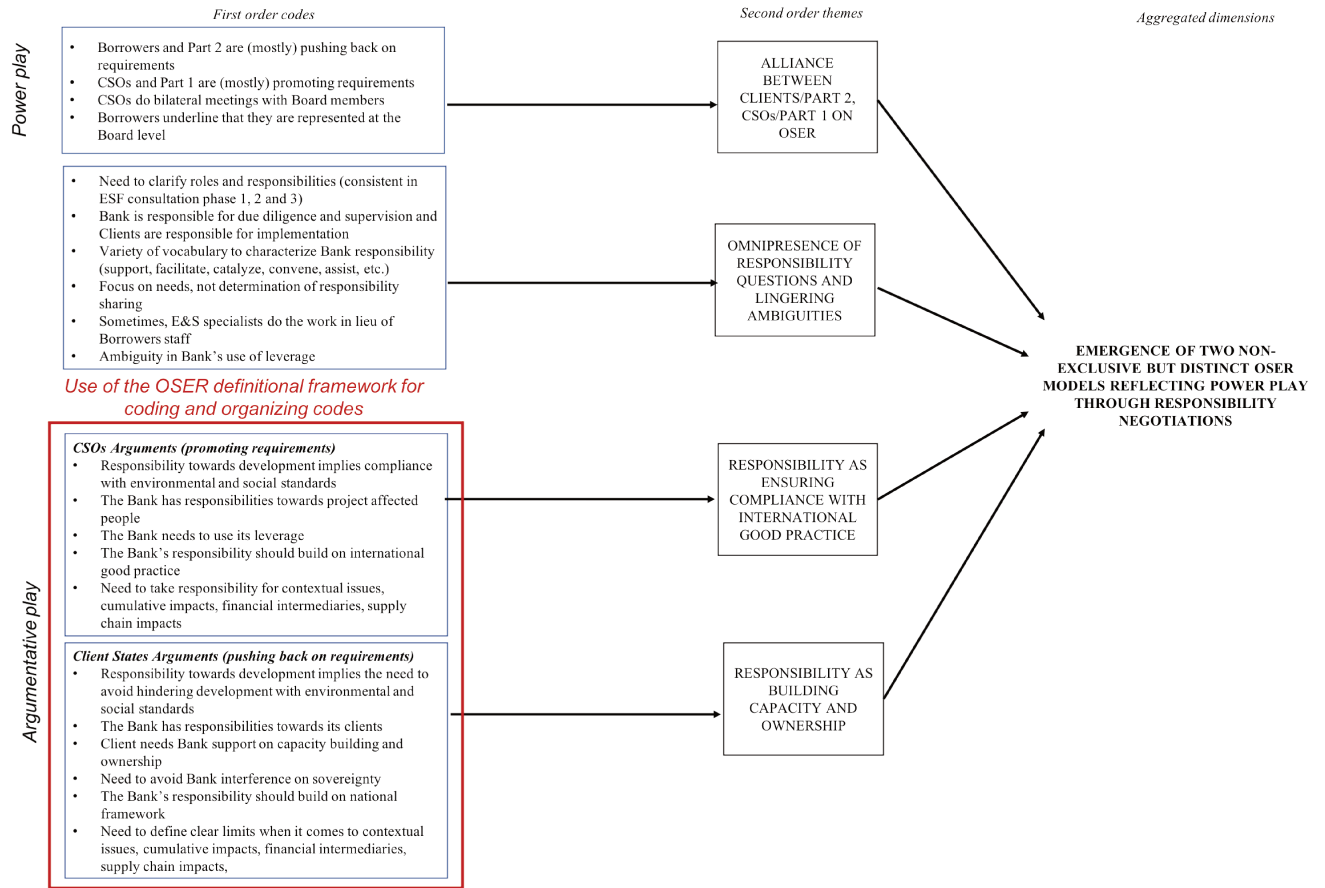
*gence and growth of new actors in development financing, such as the Brazilian National Bank (BNDES) and the BRICs Bank, which have more lax social and environmental requirement, and whether the World Bank would be concerned of losing its market. The impression is that the World Bank would be lowering its social and environmental standards to remain competitive.”* (Summary Consultation, CSOs, Brazil, Phase 2, December 2014).

Now that I have clarified the banking pressure, meta-organizational pressure and competitive environment, also summarized in the high-level coding structure presented at the beginning of this section (3.1), I have the key tools to analyze the ESF negotiation process, and the related OSER definition debates.

### **3.2 Processual results. The World Bank's OSER negotiation during the World Bank E&S Safeguards reform**

The ESF consultation is first and foremost a negotiation process. This section takes on a processual perspective to deep dive into the ESF consultation as a situation where the World Bank OSER was re-negotiated. Structuration of the data per phase rather shows recurrence than difference between the phases. As such, any distinction of perspectives will rather focus on the distinction between stakeholders' perspectives.

The results draw from the NVivo coding of the interviews and public archive, as well as the responsibility definitional framework defined in the literature review. As shown in the figure below, the coding was inductive, but first coding categories were organized in a way that facilitated the emergence of responses to the responsibility definitional framework. This NVivo coding shows the details of recurring questions on responsibility, which lead to two non-mutually exclusive models of responsibility: responsibility as ensuring compliance and responsibility as building capacity.



Source: NVivo coding

Figure 14: High level coding structure, processual dimensions

After a brief narrative description of the dynamic evolution of stakeholders viewpoints throughout the phases (3.2.1.), this section will be the occasion to first look at the way responsibility was raised as a key question in the ESF consultation throughout all the ESF consultation phases and lingering associated ambiguities (3.2.2), before describing two non-mutually exclusive but distinct responsibility models: responsibility as ensuring compliance and responsibility as building capacity (3.2.3), which are consistent with different patterns of discourse providing distinct responses to the questions raised in the responsibility definitional framework (3.2.4).

### **3.2.1 Preliminary narrative of the dynamic evolution of stakeholders' perspectives during the ESF consultation**

This sub-section offers a brief summary of the evolution of stakeholders' perspectives during the ESF consultation. As explained above in the methodology section, the ESF consultation was composed of 3 Phases, involved various stakeholders such as CSOs, private organizations, States, development partners (see Figure 6 for the description of the phases, Figure 7 and Table 4 for the description of stakeholders). Two ESF drafts were the object of the consultation (one written after Phase 1 of the consultation and commented during Phase 2, the other written after Phase 2 of the Consultation and commented during Phase 3). The ESF draft constituted an attempt to integrate different Environmental and Social Standards (ESS) to replace and complement the World Bank E&S Safeguards, and the different ESSs focused on E&S risk assessment, labor and working conditions, resource efficiency and pollution, community health and safety, resettlement, biodiversity, indigenous peoples, cultural heritage, Financial Intermediaries (FIs) and stakeholder engagement.

The below analysis builds on the World Bank archive as well as Schettler (2020) study on the ESF transnational civil society movement, which complements information archived by the World Bank in the public domain, through interviews on the movement, and description of relevant reports and meetings which structured the consultation. While stakeholders' initial positions on requirements, and key questions, remained the same throughout the phases, the dynamic evolution or inertia of perspectives vis-a-vis the successive drafts throughout the consultation provides a good understanding of the main stakes of the consultation, before diving into the way stakeholders commented, negotiated and defined the World Bank OSER itself.

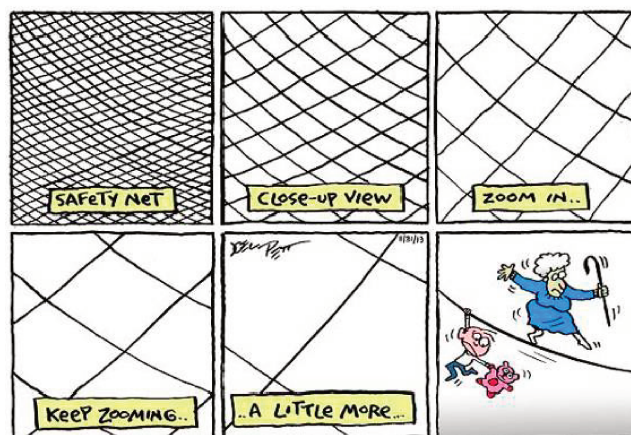
Right after IEG's recommendations to reform the World Bank's Safeguards, before the ESF consultation was even launched, CSOs already organized themselves to promote their perspectives, by sending a joint letter in September 2011 with over 300 signatories. This letter included a request to clarify responsibilities.

Phase 1 triggered a lot of anxiety on how the ESF consultation would be conducted and the potential shift that clarification of responsibilities would represent in terms of

passing on most responsibilities to Borrowers. For example, during an April 2014 CSOs forum in between Phase 1 and Phase 2, David Pred, CSO representative from Inclusive Development International expressed these worries: *“Is that going to be a straight, hard, bold line, or is that going to be kind of a dotted line? Because, as you know, currently, the safeguard policies are binding both on the Bank and the Borrower, and that’s incredibly important. I understand the rationale for having differentiated responsibilities between the Bank and the borrower. I think that makes sense. But at the same time, I think it’s incredibly important that the Bank itself is bound by the same standards that the borrower is bound by. I think having that in place now with the current Safeguards has helped to perpetuate a type of culture at the World Bank that has led to better compliance than, say, you find over at your sister Bank at the IFC, where the Performance Standards Model has been in place. The presentation looks an awful lot like the Performance Standards Model, and our perspective on that model has been it’s perpetuated a kind of anything-goes culture at IFC. That’s kind of for two reasons. One, there’s this flexibility that’s built into the borrower’s requirements in terms of compliance, but also because IFC itself does not feel bound by the standards. I’d really like to hear you comment on that and reassure us that the World Bank is not going to go in that direction, because that would be an incredible step backwards and, in fact, a massive dilution of what you have in place right now.”* (David Pred Statements, Transcript, CSOs Forum, Washington DC, Phase 1, April 2014). In November 2014, Marita Steinke makes open remarks, to which a CSO presentation is attached, with the following image, showing that the CSOs perceive that the devil is in the detail, and fear this detail would not actually safeguard project-affected people from E&S adverse impacts.

# Fixing the World Bank Safeguards:

## Strengths & Weaknesses of ESP, ESS1 and ESS10, Environmental and Social Framework



Vince McElhinny, Bank Information Center  
November 13, 2014

Prepared for Berlin Consultation, Technical Session on Human Rights,  
Review and Update of World bank's Environmental and Social Safeguard Policies



Source: *Opening remarks Marita Steinke, Human Rights Division BMZ, November 2014*

Figure 15: CSO presentation on the World Bank Safeguards

Several CSOs, despite the comments provided during the Consultation, also published reports documenting E&S violations in World Bank project, as described in Schettler (2020). For example, in January 2012, Human Rights Watch published a report titled “*Waiting Here For Death – Displacement and ‘Villagization’ in Ethiopia’s Gambella Region,*” regarding resettlement of indigenous peoples, which included highlights on the role of the World Bank supporting the Ethiopian Government under the “*Protection of Basic Services (PBS)*” program. In June 2013, Human Rights Watch published a report titled “*Abuse Free Development - How the World Bank Should Safeguard Against Human Rights Violations,*” focusing on the World Bank. This was further followed by an October 2013 report published by BIC and IDI document 8 case studies of World Bank projects, titled “*Human Rights and the World Bank: Case Studies from IDA Countries*” and covering different E&S adverse impacts in the case studies. These reports were used by CSOs to support their views in the context of the consultation.

Doubts on possible dilution of World Bank’s responsibility culminated with Phase 1 results which triggered major pushback from CSOs during Phase 2, even putting the cred-

ibility of the process on the table. CSOs particularly expressed their discontent: *“Some stakeholders felt that many inputs provided by CSOs, IEG, Inspection Panel, and internally in the World Bank have not been taken into account in this draft. This makes CSOs doubt the integrity of the review process and the usefulness of their participation. The next draft of the framework will need to show major changes to account for the feedback received.”* (Summary Consultation, CSOs, Belgium, Phase 2, November 2014). Some CSOs representatives were simply asking why there was a shift: *“A participant asked (...) why the Bank was “exonerating itself from obligations and pushing them to borrower countries in the proposed framework”* (Consultation Meeting Summary, CSOs, Tanzania, Phase 2, November 2014). Some commented that this shift was a signal that the World Bank was moving away from its organizational E&S responsibilities: *“Shifting responsibility to the Borrower only means that the World Bank is moving away from it.”* (Consultation Meeting Summary, CSOs, Egypt, Phase 2, October 2014). CSOs went as far as to mention an abdication from the World Bank on its responsibilities: *“There is a general feeling that the World Bank was “abdicating” its role with the proposed Safeguards with “less coverage” and that the Bank would provide “less oversight” with the new policies.”* (Consultation Meeting Summary, CSOs, Norway, Phase 2, November 2014). Others mentioned that letting States *“drive”* was a way to protect the World Bank – likely pointing inuendo to the need for the World Bank to protect itself against accountability demands and litigation risks: *“Des préoccupations ont été exprimées sur le fait que la Banque tente de se protéger en plaçant l’emprunteur dans le ‘siège conducteur.’”*<sup>5</sup> (Consultation Meeting Summary, CSOs, Senegal, Phase 2, November 2014). This criticism was triggered by a perceived lack of clarity on the World Bank’s responsibility. CSOs particularly insisted on the lack of clarity related to the World Bank’s due diligence role: *“The proposal was perceived as a shift of responsibilities to the borrower without proper clarity on the World Bank’s role regarding due diligence, monitoring, or supervision. It was warned that the proposal could weaken the World Bank’s role by deferring to countries’ own environmental and social frameworks. (...) Concern was expressed that the proposed ESF could erode the World Bank’s responsibility for protecting the environment because it is not clear how the World Bank would do due diligence.”* (Consultation Meeting Summary, CSOs, Canada, Phase 2, January 2015). This lack of clarity was perceived as exacerbated by the inclu-

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<sup>5</sup> Translation: *“Concerns have been expressed on the fact that the World Bank is trying to protect itself by putting the Borrower in the ‘driver’s seat.’”*



sion of proportionality restricting certain monitoring exercises to high risk projects and the fact that the Environmental and Social Commitment Plan (ESCP), which sets out material measures the Borrower has to take under the loan agreement, could be completed after Board approval, thus leading to less required preparation and commitments before the Board approves (and less leverage after Board approval to promote Borrower's commitments to comply with Safeguards): *“With the proposed phased approach, an ESIA may not be complete at Board approval; without knowing the full scope of a project, how can the Board discuss and approve a project? Where will there be room for comment?”* (Consultation Meeting Summary, CSOs, Norway, Phase 2, November 2014). This shift is perceived as particularly risky for countries with low capacity: *“Shifting more responsibility to Borrowers is risky, particularly in cases of low capacity in country systems or corruption.”* (Consultation Meeting Summary, MS, Switzerland, Phase 2, December 2014). One key request is that the World Bank's monitoring role be clarified in the ESF: *“In the proposed Framework, the Bank does not appear to review and approve enough for key milestones. This should be clarified in the forthcoming procedures. (...) Most borrowers have no expertise on cultural heritage to implement the requirements under ESS8, including the development of a chance find procedure. So if this is left to the responsibility of the borrower, it will not be implemented.”* (Consultation Meeting Summary, CSOs, India, Phase 2, December 2014). To convey their concerns, CSOs prepared a statement entitled *“Civil Society Statement on World Bank Safeguards,”* which was signed by 360 CSOs (representing approximately 25 international organizations and national CSOs representing 98 countries). This letter asked that the Bank *“refrain from transferring core responsibilities and accountability for safeguard outcomes away from the World Bank.”*

The view that the draft posed the risk of a dilution was also interestingly supported by the Independent Evaluation Department (IED) of the Asian Development Bank (ADB) in a publication on the proposed World Bank Safeguards in November 2014, and also by the UN Human Rights Council, who wrote a letter to the World Bank President in December 2014 (cited in Schettler 2020).

Schettler (2020) also describes that CSOs directly engaged with Maxine Waters at the House of Representative's Financial Service Committee, the Congressional Research Service team covering MDBs, the U.S. Treasury and the State Department, as well as the

French Government. On December 9, 2014, the US Congress published the 2015 Omnibus Appropriation Act, which instructed the US to “*vote against any loan, grant, policy or strategy if [the World Bank] has adopted and is implementing any social or environmental safeguard ... that provides less protection than World Bank Safeguards in effect on September 30, 2014*” (Consolidated and Further Continuing Appropriations Act, 2015, p. 1199). During Phase 2, the increase in submissions from Government representatives is notable, with one submission in Phase 1, and 16 submissions in Phase 2, from both Borrowing and non-Borrowing countries (including France, Germany, the UK and the US). CSOs also used leakages, for example the January 2015 leakage of the Inspection Panel Investigation Report on the Protection of Basic Services Program in Ethiopia, which the World Bank responded to with an action plan titled “*Action Plan: Improving the Management of Safeguards and Resettlement Practices and Outcomes,*” which many CSOs and press organizations found insufficient and reacted to with investigative reports on the matter, released on April 16, 2015 by the International Consortium of Investigative Journalists and done by more than 20 news organizations, including The Huffington Post, El Pais, the Guardian, Fusion, The Investigative Fund, the Ground Truth Project and Brazil’s Agência Pública. This triggered no substantial reaction from the World Bank President. CODE showed some support for CSOs through a June 2015 Statement that the draft should go further (cited in Schettler, 2020), but did not substantiate its claims with a prospect of vetoing the E&S Safeguards reform or funding cuts.

While the perception that the new draft represented a shift of responsibility towards Borrowers was interpreted as a dilution by many CSOs representatives, Governments, although more seldomly, seemed to already raise question about the increased importance of the World Bank’s role: “*The ESF mentions that the World Bank will have a larger involvement in projects. What does that entail? Does it mean that the Bank will be involved in project implementation?*” (Consultation Meeting Summary, Government, Kenya, Phase 2, February 2015). However, most Governments seem to agree on the fact that there was a shift of responsibility towards the Borrowers but were worried this actually disproportionately increased their liability: “*The new ESF shifts the burden from the Bank to the borrower by creating legally binding obligations that would be part of the loan agreements. We are concerned about some of the new requirements for the review and modification of the Borrower’s own ES Framework (para 18 and 19 of the ESS1 and*

*para 24 and 25 on page 13), project preparation (para 1517 of the ESS1) and project implementation (para 35, 38-41 of the ESS1), including additional monitoring and reporting obligations of the borrower (para 49—55 of the ESS1)."* (Submission from Russia Executive Director, Phase 2, February 2015). Governments representatives commented on their concerns related to the perceived rise of requirements: *"A participant remarked that World Bank requirements have become more stringent over time and was concerned that the new framework would be even more so"* (Consultation Meeting Summary, Government, Turkey, Phase 2, October 2015).

The beginning of Phase 3 signals World Bank's concerns resulting from Borrower's push-back during Phase 1 and Phase 2: *"Now, the phase three consultations: the number of countries that we are going to and the methodology for conducting this third round have been very much dictated by our Board of Directors. Many of the Board, particularly in the borrowing countries, felt that the first draft was produced very much along the lines of what CSOs and advanced borrowing countries require. We often heard the comment that 'you listened more to the CSOs than you did to us.' And I cannot underemphasize the concern of many borrowing countries about this. There was the comment that 'the first draft was about 100 pages, and we could barely live with that. Now you came along with the second draft, which has about 150 pages. And we can live with it even less.' So, this is a key concern."* (Mark King, World Bank Chief Officer for E&S standards, Transcript, CSOs Forum, Washington DC, Phase 3, October 2015). Whether this argument was conveyed by the World Bank as a negotiation argument to convince stakeholders' that a compromise was being reached and that CSOs' and/or Borrowers' views were heard and integrated in the draft, the consultation meetings summaries do confirm the fact that Borrowing countries were worried about the draft.

As such the shift of responsibility towards Borrowers was a subject of worry for both CSOs (as this was interpreted as dilution) and Borrowers (as this was interpreted as unfeasible).

The second draft shows that the World Bank adds a commitment in the vision to the use and development of Borrowers' framework, but also adds details on how the World Bank will assess the Borrower's framework's *"material consistence"* with the E&S standards of the ESF. However, the second draft also adds notions in line with CSOs requests, although

it does not change some of the wording triggering CSOs concerns. For example, it is more specific on climate, it gives more prominence to the notion of ecosystem services, it deletes the alternative approach for Indigenous People (which allowed Borrowers to not apply the standard related to Indigenous Peoples under certain circumstances when Indigenous Peoples were affected).

During Phase 3, there was a particular focus on costs, especially Governments who were concerned about securing necessary resources to comply with the standards, which also points to questions on responsibility, as the responsible party may also bear the cost. This question regarding costs was raised in the context of anticipated changes in risks throughout the project cycle: *“Participants asked who would cover additional costs that may arise during the life-cycle of a project, for example due to changes in risk classification and new”* (Consultation Meeting Summary, Government, Peru, Phase 3, November 2015). Similarly, the question was raised in the context of the expected need to adapt to climate changes impacts: *“Unpredictability of weather situation (climate change), no rain or too much rain – no weather information and records; devastation by nomads and their animals, pests and diseases – who bears the cost?”* (Consultation Meeting Summary, Government, Nigeria, Phase 3, December 2015). Borrowing countries would typically raise questions as to whether costs could be covered by the World Bank: *“requirement to compensate before taking of land and leaving the government in charge of compensation may hold up projects. Can the Bank take on responsibility for compensation?”* (Consultation Meeting Summary, Government, Cameroon, Phase 3, January 2016).

While Phase 3 did not seem to have triggered the same amount of counter-mobilization on the part of CSOs, stakeholders were still maintaining the pressure on the need for the World Bank to retain its monitoring role: *“World Bank should not delegate its due diligence responsibilities to Borrowers”* (Consultation Meeting Summary, MS, Nigeria, Phase 3, December 2015). To promote their views, CSOs also used the press, with for example an article in the Financial Times on September 15, 2015, titled *“Time to bolster Safeguards, not dilute them,”* and CSOs also used reports and case studies, like the 2016 study published by Kristen Genovese and Mariëtte van Huijstee and titled *“Glass Half Full? The State of Accountability in Development Finance,”* which were also used in meetings between CSOs and Governments (including the Netherlands, Belgium,

Sweden and Finland) which likely led to comments from the Nordic Baltic Constituency on the draft, as described in Schettler (2020). Throughout Phase 3, Schettler (2020) also described that CSOs kept on focusing on their contacts at the US Government level, in particular the US Congress, which remained a significant voice throughout, although its submission for Phase 3 was done in July 2015, at the beginning of Phase 3, to acknowledge different stakeholders' views, and approve the launch of Phase 3 consultation – thus constituting a mild submission attempting to pave the way for a compromise, as opposed to imposing views through threats of funding cuts or veto.

While CSOs kept on promoting their views during Phase 3, the credibility of the process was also put in question at this point by Borrowers, whose voice had been increasingly loud during Phase 2. Borrowers criticized that these standards were imposed on them: *“The new standards seem to be top down rather than bottom up”* (Summary Consultation, Government, India, Phase 3, December 2015). In particular, they mentioned that their comments were not taken into account in the drafts: *“The Government of Kenya noted that their comments and concerns in the earlier phase of this review were not adequately reflected in the documents and it is their hope that the comments made during this phase will be included in the documents.”* (Summary Consultation, Government, Kenya, Phase 3, February 2016). Borrowers were asking to be better listened to in phase 3 of the consultation: *“Borrower countries have concerns on the second draft ESF. There is no evidence that the Bank listened to borrowers in the previous consultations. In Phase 3 consultations, we expect the Bank team to listen to borrowers, in particular those who implement projects on the ground more genuinely and carefully.”* (Summary Consultation, Government, India, Phase 3, November 2015).

These pushback and evolution show the very diverging positions CSOs and Borrowers had on the question of OSER during the negotiation, which were embedded in the power play and alliance that may be formed, reflecting stakeholder's use of MO dynamics at the Board level. Despite these diverging positions, the question of OSER was recurrent and appeared to be central in the discussion, as one of the E&S Safeguards key goals was to clarify the World Bank responsibility. The next sub-section describes the way this question was consistently raised throughout the consultation phases.

### 3.2.2 Omnipresence of the question of the World Bank responsibility during the ESF consultation: responsibility in question and related ambiguities

The ESF consultation is the occasion to raise a series of questions about the World Bank’s OSER. Since the beginning, the clarification of the World Bank responsibility is a consensual item on the agenda. While donors’ and recipients’ mutual accountability is an agreed principle in the aid world since the Paris Declaration on aid effectiveness (2005), there is still a need to clarify the definition of donors’ and recipients’ responsibility: *“the current policies, of course, have the disadvantage that they’re not explicit in who’s responsible, and often that leads to delays because it requires us to turn to our Legal Department for advice on how to interpret it exactly. I think that will be a major achievement of the policy if we have greater clarity on this one.”* (Statement Stefan Koeberle, World Bank Director for Strategy, Risk and Results, OPCS, Transcript, CSOs Forum, April 2014).

#### ***Recurrence of the need to clarify the World Bank’s role and responsibilities***

Questions around the World Bank’s OSER are raised during the whole consultation process. The table below demonstrates that the questions was raised by all main stakeholders throughout all three phases of the consultation.

Table 8: The question of the World Bank’s responsibility throughout the ESF consultation

| Consultation summary                  | Quote   |
|---------------------------------------|---|
| Phase 1: Governments                  |   |
| Focus Group, Human Rights, April 2013 | <i>“The key concern is a confusion of the roles and responsibilities of the Bank and the obligation of member states”</i>   |
| Governments, Switzerland, March 2013  | <i>“It is also important to clearly distinguish between country and World Bank roles and responsibilities, and to clarify how this is taken into account in the loan agreement”</i> |
| Governments, Sri Lanka, April 2013    | <i>One of the challenges in the application of the Safeguards policies is to “designate clear responsibilities for better implementation and applicability of the policies”</i>     |
| Governments, Indonesia, March 2013    | <i>“Clearer roles and responsibilities of the Bank and the governments need to be established”</i>  |

| Phase 1: MS                                   |   |
|---|---|
| Multi Stakeholder, Switzerland,<br>March 2013 | <i>“It is also important to clearly distinguish between country and World Bank roles and responsibilities, and to clarify how this is taken into account in the loan agreement”</i>   |
| Multi Stakeholders, D.C,<br>February 2016     | <i>“The Bank’s responsibilities are still not clear, thus creating the potential for both Bank staff and Borrowers not to meet their obligations”</i>   |
| Phase 1: World Bank staff                     |   |
| CSOs Forum, Washington DC,<br>April 2013      | <i>“I think there was a theme that did not seem to be particularly controversial but really consistent. There needs to be greater clarity between the roles and responsibilities of the Bank and the borrower”</i>  |
| Public Meeting, Washington<br>DC, April 2014  | <i>“A problem with the documents that we currently have is also that it’s not often clear who is responsible for doing what and to what extent issues and actions should be carried out, which leads to a lot of debate internally and also with borrowers about what needs to be done next on projects in a practical sense.”</i>                                |
| Phase 2: Governments                          |   |
| Governments, Indonesia,<br>December 2014      | <i>“In resettlement projects for example, people are flooded all the time. Who should be accountable when things don’t get done properly? Even if the proposed standards are government responsibility, some of them are so complex, they are hard to apply. The participant encouraged the Bank to clarify who would be held accountable.”</i>                   |
| Government, Switzerland,<br>December 2014     | <i>“The Bank’s responsibility during implementation should be clarified. (...) The draft document does not put in perspective in a clear manner the various stakeholders and their respective roles and responsibilities. The complex role of the Borrower in land acquisition, restrictions on land use and involuntary resettlement needs to be clarified.”</i> |
| Government, Barbados, January<br>2014         | <i>“The Framework should more explicitly state the role of the Bank and the Borrower in supervising compliance with the standards.”</i>   |
| Government, Georgia,<br>September 2014        | <i>“Clarification was sought on who would have responsibility for preparation of the ESCP [document summarizing key environmental and social risks and mitigation measures, including specific documents and plans, for a specific projects]”</i>   |

|   |   |
|---|---|
| Consultation Meeting Summary, Government, Senegal, Phase 2, November 2014     | <i>“Qui est responsable des impacts négatifs du travail des enfants ou des impacts liés au genre ?”</i>   |
| Consultation Meeting Summary, Government, Switzerland, Phase 2, December 2014 | <i>“The draft document does not put in perspective in a clear manner the various stakeholders and their respective roles and responsibilities. The complex role of the Borrower in land acquisition, restrictions on land use and involuntary resettlement needs to be clarified.”</i>  |
| Phase 2: CSOs   |   |
| CSOs, Kenya, February 2015  | <i>“Who will be liable for bad practices, and what Safeguards standards will be used when more than one institution finances a project?”</i>  |
| CSOs, Canada, January 2015  | <i>“The ESF should be clear about the World Bank’s vis-à-vis Borrowers’ roles and responsibilities regarding grievance mechanisms.”</i>   |
| CSOs, Brésil, December 2014   | <i>“Participants mentioned that there is a lack of clarity in the ESF about the responsibility of the World Bank and the Borrowers in the human rights area. The document is not clear about who is accountable and it seems that the World Bank could not be held accountable for human rights violations. It is not acceptable to have this vacuum of accountability in cases of misconduct.”</i> |
| Phase 3: Live Chat  |   |
| Live Chat, March 2016   | <i>“Is it the Bank’s responsibility to ensure that borrowers comply with the requirements of the Safeguards? Its not entirely clear from this draft.”</i>   |
| Phase 3: Governments  |   |
| Government, Peru, November 2015   | <i>“Participants stated that in the proposed framework it was unclear who would be responsible for compensating communities for adversely affecting biodiversity.”</i>  |
| Consultation Meeting Summary, Government, Turkey, Phase 3, January 2016       | <i>“The responsibilities of Borrowers and financial intermediaries should be clarified in terms of sub-contractors. What is the exact responsibility?”</i>  |
| Phase 3: MS   |   |
| Multi-stakeholders, Iraq, December 2015                                       | <i>“Participants requested more detail about adaptive risk management, the roles and responsibilities of both the Borrower and the Bank, particularly with respect to monitoring and supervision and in conflict and fragile situations.”</i>   |



|   |  |
|---|--|
| Consultation Meeting Summary, MS, Washington DC, Phase 3, February 2016 | <i>“The Bank’s responsibilities are still not clear, thus creating the potential for both Bank staff and Borrowers not to meet their obligations.”</i> |
| Consultation Meeting Summary, MS, Begium, Phase 3, January 2016         | <i>“Participants asked for further clarifications about the Bank’s responsibility if the ESSs are not properly implemented.”</i>                       |

One important intervention showing the need to clarify roles and responsibilities is the one from the Panel, which is the independent body judging the World Bank’s compliance with the Safeguards, and therefore, the way the World Bank complied with its responsibility as it is defined in the Safeguards. During Phase 3, the Inspection Panel emphasized the need to further clarify the World Bank role: *“The Panel remains unclear about the roles and ultimate responsibilities of the Bank and borrower countries. For example, the Panel notes that paragraph 16 of the Policy states ‘The Bank will ‘require’ the Borrower to prepare and implement projects so that they meet the requirements of the ESSs in a manner and a timeframe acceptable to the Bank.’”* (Submission, Inspection Panel, Phase 3, June 2015).

***Questions regarding responsibilities of the World Bank’s stakeholders***

Beyond questions regarding the World Bank and Borrowers responsibilities, questions around responsibility also arise with regard to the responsibility of the private sector (Consultation Meeting with the Private Sector, December 2014, Brazil: *“The document is not clear what would be the division of responsibilities between the public and the private sector.”*) and financial intermediaries (Consultation Meeting with the Government, January 2016, Turkey), often involved in World Bank projects as project parties hired by the States.

Sharing of responsibility with local communities is also raised: *“Paragraph 84 of ESS 8 includes the requirement to promote the equitable sharing of benefits from the use of cultural heritage; however this should not be the responsibility of the Borrower but instead the responsibility of the community itself.”* (Consultation Meeting Summary, Private Sector, Brazil, Phase 2, December 2014).

Consultations are also used by CSOs to promote their role and responsibility as partners or independent reviewers in projects: *“Les participants ont souhaité savoir qui pourrait jouer un rôle indépendant lorsque toutes les responsabilités incombent à l’Emprunteur et à la Banque.”*<sup>6</sup> (Consultation Meeting Summary, CSOs, Senegal, Phase 2, November 2014).

All of this reflects how questions surrounding OSER definition may be instrumentalized to juggle the responsibility ball, or pass the buck, when various stakeholders are involved. The question of OSER may have comparable patterns for different stakeholders along the global value chain, that may need to be further analyzed and distinguished. However, this PhD thesis particularly focuses on the negotiation of the World Bank OSER vis-à-vis States, not the responsibility of States vis-à-vis Contractors or Contractors vis-à-vis their suppliers, and, while it may note certain patterns of arguments regarding OSER negotiations (pointing to the symmetry between debates about the World Bank OSER and Contractor’s OSER for example), it therefore does not delve into the same amounts of details when it comes to defining OSER for States vis-à-vis communities, private sector, or private sector vis-à-vis sub-contractors etc.

### ***World Bank response to questions around responsibility***

The World Bank’s response on responsibility is relatively consistent throughout the consultation process. The World Bank Staff argues that States implement projects, and the World Bank supervises States: *“It’s the Bank’s obligation to monitor the compliance with that legal agreement and commitment plan, and it’s the borrower’s obligation to implement it. These are just fundamental distinctions between the two roles, and I think that’s what we’re trying to clarify in this process”* (Charles Di Leva, World Bank Chief Counsel on Environmental and International Law, Transcript, Phase 1, April 2014).

As put in the Wapenhans report (1992), the World Bank role in terms of supervision can be specified in distinct categories: *“The Bank’s role in supporting project implement is inadequately defined as ‘supervision’; it, in fact, encompasses four distinct roles: (1) supervising the procurement, disbursement and end use of IDA and IBRD funds; (2) monitoring compliance with loan/credit contracts; (3) facilitating implementation by helping*

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<sup>6</sup> Translation: *The participants wanted to know who could play an independent role when all responsibilities lie with the Borrower and the Bank.*

*Borrowers interpret and respond to the Bank's requirements; and (4) providing substantive implementation assistance to Borrowers.*" (p. 12). As such, World Bank staff may also emphasize the World Bank's role in supporting Borrowers in addition to monitoring: *"The Bank's responsibility goes beyond this monitoring role however as specified in the Environmental and Social Policy. The Bank's responsibility is also about supporting the borrower in identifying appropriate methods and tools to assess [unfinished sentenced, probably 'to assess E&S risks and associated mitigation measures']"* (Victor Mosoti, Legal Counsel, World Bank, Live Chat, Phase 3, March 2016).

Similarly, World Bank Management recognizes that the World Bank could take responsibility for grievance resolution: *"Management agrees with IEG that there is value in creating a grievance redress mechanism for which Bank Management will take responsibility and which is complementary to, but separate from, the Inspection Panel."* (IEG, p. xxix). However, it notes that the principle according to which World Bank supervises and Borrowers implement should remain: *"Management wishes to underscore that establishing this mechanism would not alter the responsibility of borrowers and recipients for implementing projects, and that in many cases, the grievances are not necessarily with the Bank, but between our clients and project-affected people."* (IEG, p. xxix).

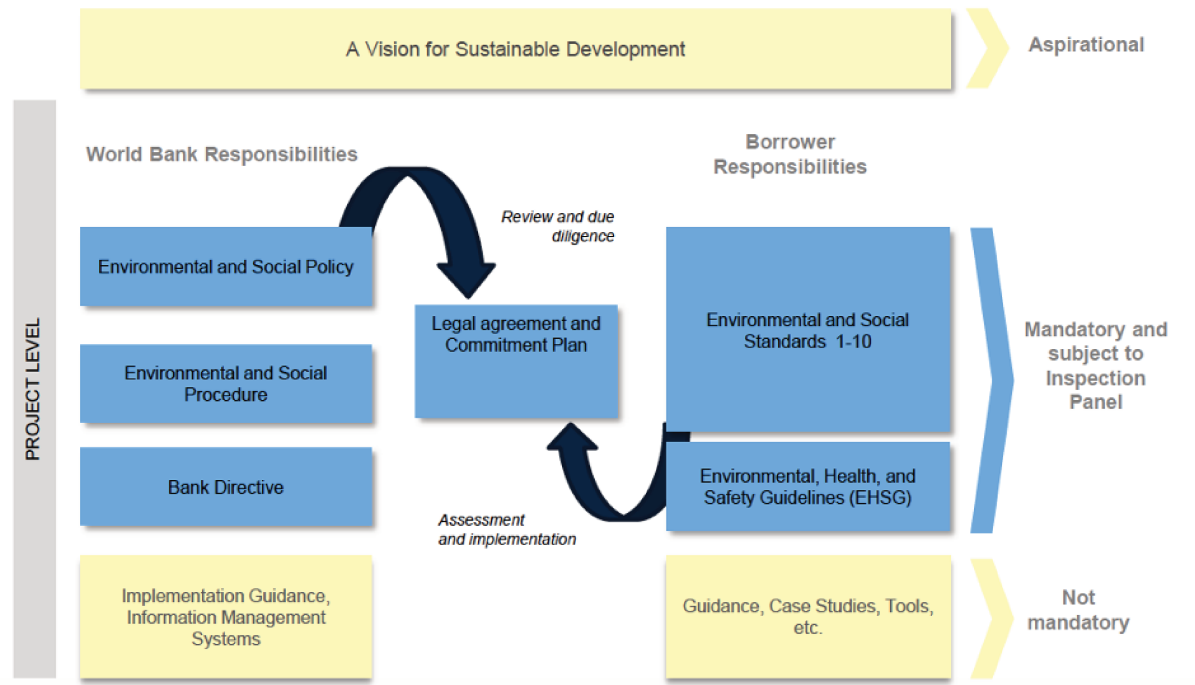
This distinction of responsibilities is also true with the use of the country framework, i.e., when the World Bank considers using national law only instead of the ESF to define project E&S requirements. In these cases, the World Bank argues it retains its responsibilities in terms of due diligence: *"Again, we're developing detailed methodology for assessing borrower frameworks, and even where we use a borrower's framework - let's say we allow Peru to use its national legislation to produce an environmental and social assessment of a project - the Bank still has to review that ESIA, that document, to see if it addresses the risks of the project adequately. So, it's not a matter of us giving over responsibility to borrowers to manage their own projects. We have to be comfortable that the risks are being identified and addressed in an adequate manner and Bank standards are being complied with"* (Mark King, World Bank Chief Officer for E&S standards, Transcript, CSOs Forum, Phase 3, October 2015).

One should note that this is a widely shared representation among MDBs. Two important arguments that sustain the distinction between Borrower as implementor and World Bank

as supervisor are the need to avoid conflict of interests to conduct the oversight and the need to promote client ownership, in line with a development perspective where clients ultimately are autonomous and conduct their own development. This is often mentioned when it comes to preparation: *“Preparation is owned by the country and supported by World Bank advice. Be careful. Otherwise, the evaluation principle would be completely undermined, it must be the responsibility of the country.”* (Interview, World Bank staff). For example, preparing the ESIA would typically be a Borrower’s responsibility. Indeed, first, there is a need to avoid conflict of interest: *“If we do [the ESIA] and evaluate them, we become both judge and party. We help them, we guide them, we seek the consultant who can assist them. But our own people should not do them because otherwise, they would evaluate themselves.”* (Interview, World Bank staff). Second, the goal is also to promote the client’s autonomy in their own development, as opposed to imposing a development scheme from the outside, although one cannot neglect the significant influence of the World Bank in that process: *“We can’t turn a blind eye, it’s very biased, but it needs to be ownership of the country. It has to be the locals who take ownership of all this. When I was working in Brazil, we contributed immensely to developing the capacity of the federal states to form institutional teams that could manage everything. Prepare projects, interact with the sectoral service and others, that was the key. Otherwise, it becomes the World Bank’s project. The project officer takes over the preparation, conducts the ex-ante evaluation, presents it for negotiation, and then sends it to the Board.”* (Interview, World Bank staff).

The final presentation of the World Bank’s Safeguards architecture therefore insists on the typical below representation, underlining that the World Bank’s role is to evaluate and monitor while the State retains the responsibility of project implementation. In the figure below, it is specified that World Bank responsibilities revolve around *“review and due diligence”* while Borrowers’ responsibilities revolve around *“assessment and implementation,”* clarifying what documents guide which responsibility (E&S Policy, Procedure and Bank Directive outlining the World Bank review and due diligence responsibilities, and ESS as well as EHS Guidelines clarifying the Borrower’s assessment and implementation responsibility).

# Framework Architecture



Source: IMF/World Bank Annual Meetings Civil Society Policy Forum, October 7, 2016

Figure 16: The ESF Architecture

In the interviews I did to complement a few points I needed to discuss with World Bank staff, when my preliminary results indicated that there was more to responsibility definition than the institutional distinction of roles between the World Bank and Borrowers, I asked about responsibility ambiguities at the World Bank. While some World Bank staff agreed that there was a general question around World Bank and Borrower’s responsibilities that needed clarification, and that roles and responsibilities were sometimes unclear, others mentioned that the World Bank responsibilities vis-à-vis Borrowers were clear: *“Borrower are always responsible for implementing projects, including commitments to Safeguards. You speak of difficulties in defining/negotiating roles. Not sure that it’s so difficult. The responsibility is clearly to my mind for the country. The Bank might say we are imposing that on your country. But I don’t think that there is a responsibility problem”* (World Bank staff interview). This is in line with the World Bank’s institutional response on roles and responsibilities.

However, this World Bank institutional response leaves a great deal of leeway as to the effective role of the World Bank. Indeed, the World Bank responsibility can be

characterized by supervision/monitoring/advice on the World Bank’s side, and assessing, implementing and reporting on the Borrower’s side, but it still requires defining what advice, review and due diligence mean, as well as what assessment, implementation and reporting means, and the difference between the two. It also requires clarifying what is meant by leverage, how leverage is used, and what the World Bank should encourage, or what it should require.

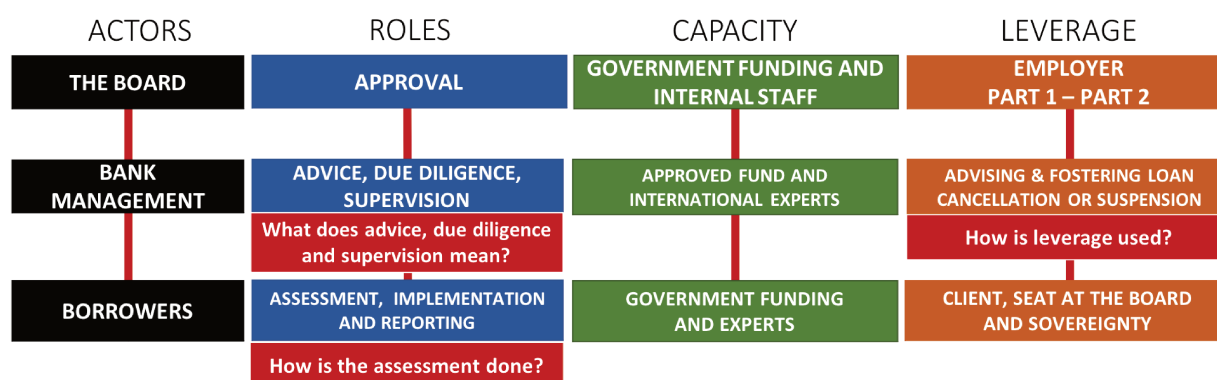


Figure 17: Lingering ambiguities in responsibilities of the World Bank vis-a-vis the States

The many distinct ambiguities associated with the distinction between supervision and implementation are explained below.

***The ambiguous vocabulary to characterize World Bank responsibility***

The vocabulary used to describe the World Bank role is quite diverse – and although not necessarily contradictory, can convey confusing and distinct interpretations of the World Bank’s role: the World Bank “*supports,*” “*facilitates,*” “*works with,*” “*helps,*” “*ensures,*” “*enforces.*” A few examples are shown below, in a spectrum from what I interpret as the least constraining word to the most constraining word. While this list is non-exhaustive and mostly illustrates comments made during Phase 1, I note that such ambiguity remained during the consultation Phases.

Table 9: Examples of words used to define the World Bank's role

| <b>Support (undefined)</b>   |   |
|--|---|
| <p>Consultation Meeting<br/>Summary, Governments,<br/>Switzerland, Phase 1,<br/>March 2013</p>                     | <p><i>“For Switzerland the desirable outcome is a framework that provides a set of clear social and environmental objectives that the partner country would be able to achieve over time thanks to the <b>World Bank’s support.</b>”</i></p>  |
| <b>Facilitate</b>  |   |
| <p>Consultation Meeting<br/>Summary, CSOs, Russia,<br/>Phase 1, March 2013</p>                                     | <p><i>“Financial Intermediaries. <b>The World Bank should facilitate greater environmental and social responsibility</b> of Russian financial institution-borrowers through establishing strict requirements to be applied on a continuous rather than occasional basis”</i></p>  |
| <p>Consultation Meeting<br/>Summary, Expert Focus<br/>Group on Indigenous<br/>Peoples, Phase 1, March<br/>2014</p> | <p><i>“<b>World Bank as facilitator:</b> The World Bank has facilitated dialogue between governments and Indigenous Peoples at the regional and national levels. Furthermore, the Bank should not be just an actor, but act as a catalyst so that governments take more responsibility for international obligations. (...) The Bank should play a catalyst role in making government accountable for the political, economic and social rights of Indigenous Peoples.”</i></p> |
| <b>Catalyzer</b>   |   |
| <p>Consultation Meeting<br/>Summary, Expert Focus<br/>Group on Indigenous<br/>Peoples, Phase 1, March<br/>2014</p> | <p><i>“<b>The Bank should play a catalyst role</b> in making government accountable for the political, economic and social rights of Indigenous Peoples.”</i></p>   |
| <b>Convener</b>  |   |
| <p>Consultation Meeting<br/>Summary, Expert Focus<br/>Group on Human Rights,<br/>Phase 1, April 2013</p>           | <p><i>“Experts expressed the view that <b>the World Bank could act as a convener</b> of an ongoing human rights dialogue with client governments.”</i></p>  |
| <p>CSO submission, Phase 2,<br/>March 2015</p>   | <p><i>“With its <b>convening power</b>, the Bank can bring together development planners; project proponents; and environmental, social and cultural authorities, in order to facilitate the holistic approach set forth in its Environmental &amp; Social Framework in general”</i></p>  |
| <b>Assist</b>  |   |
| <p>Consultation Meeting<br/>Summary, CSOs, Romania<br/>and Moldova, Phase 1,<br/>March 2013</p>                    | <p><i>“<b>The Bank can assist the national system</b> in order to gain the capacity which is necessary to properly assess the impacts of various investment projects on the environment”</i></p>  |

|  |   |
|--|---|
| <b>Provide technical assistance/guidance</b>   |   |
| Consultation Meeting<br>Summary, MSs, Philippines,<br>Phase 1, March 2013                                | <i>“The Bank can provide guidance on best practices, extend technical assistance to regulators, and cascade these to local government units.”</i>   |
| <b>Work with</b>   |   |
| Consultation Meeting<br>Summary, Expert focus<br>group on Climate Change,<br>Phase 1, February, 2015     | <i>“The World Bank should work with governments to encourage them to update their existing climate related rules and regulations for considering climate change in project design”</i>  |
| <b>Act as a bridge</b>   |   |
| Consultation Meeting<br>Summary, Governments,<br>India, Implementing<br>agencies, Phase 1, March<br>2013 | <i>“The role of the Bank should be to act as a bridge to facilitate these communications and to help share lessons-learned and knowledge across projects and sectors.”</i>  |
| <b>Help</b>  |   |
| Consultation Meeting<br>Summary, CSOs, Peru,<br>Phase 1, February 2013                                   | <i>“Some argued that it should be the responsibility of the donor to help countries improve and scale up their laws and regulations on disability”</i>  |
| <b>Urge</b>  |   |
| Consultation Meeting<br>Summary, CSOs, Russia,<br>Phase 1, March 2013                                    | <i>“The Bank could urge integration of its standards in the practice of Russia (above all, public) banks”</i>   |
| <b>Oversee</b>   |   |
| Consultation Meeting<br>Summary, Government,<br>Switzerland, Phase 2,<br>December 2014                   | <i>“Accordingly, the Bank should set up a monitoring team to oversee the use and governance of loans”</i>   |
| <b>Supervise</b>   |   |
| Consultation Meeting<br>Summary, Government,<br>Mexico, Phase 3, December<br>2015                        | <i>“Participants stated that the proposed Framework needs to include clear instructions of how the World Bank will supervise the compliance of development banking and FI environmental management systems. Participants suggested the use of trusted third parties, for example, auditors”</i> |



| <b>Monitor</b>  |   |
|---|---|
| Submission, Legal Resources Center, March 2015                                  | <i>“The ESP does not contain a commensurate mandatory obligation on the World Bank to monitor compliance, and we submit that such a provision should be included in the ESP.”</i>   |
| Consultation Meeting Summary, MS, Kazakhstan, Phase 1, March 2013               | <i>“<b>The Bank should take more responsibility for auditing, analyzing expenditures, and monitoring</b> the efficiency of projects/programs at all stages of implementation”</i>   |
| <b>Influence</b>  |   |
| Consultation Meeting Summary, MS, Philippines, Phase 1, March 2013              | <i>“<b>The Bank can “influence” regulators</b> so that appropriate measures are taken in a timely manner. Ensure constant coordination with regulatory agencies (i.e., Department of Environment and Natural Resources, in the case of the environment). (...) The Bank can influence the Philippine government in pushing for the enactment of the National Land Use Act, the Sustainable Forest Management Act, and Reducing Emissions from Deforestation and Forest Degradation”</i> |
| <b>Support (financial)</b>  |   |
| Consultation Meeting Summary, Governments, Bangladesh, Phase 2, January 2015    | <i>E&amp;S compliances are very important issue for the globe but clients need to pay additional cost to ensure it. So, World Bank can <b>provide support in addition to project fund</b> on E&amp;S compliance issues to support the client.</i>   |
| <b>Ensure</b>   |   |
| Consultation Meeting Summary, Governments, Egypt, Phase 1, March 2013           | <i>“It is important to consider the rights of countries that share resources (such as the Nile Basin Countries) and the measures the Bank could put in place to <b>ensure that countries do not violate each other’s rights</b>, particularly in the absence of agreements.”</i>  |
| Consultation Meeting Summary, Governments, South Africa, Phase 3, November 2015 | <i>“There needs to be clarity as to <b>how will the Bank ensure compliance</b> with the ESCP”</i>   |
| Submission, Inspection Panel, Phase 3, June 2015                                | <i>The Panel notes a change in terminology and language from the current safeguard policies, which call for the Bank to “ensure” the consistency of Borrower’s actions with applicable safeguard policies. Would the change in terminology also entail a change in the Bank’s responsibilities and a potential shift of accountability for harm that may be caused by Bank-financed operations to the Borrower?”</i>  |

| <b>Enforce</b>   |  |
|--|--|
| Consultation Meeting<br>Summary, Expert focus<br>group on Social Risk<br>Management, Georgia,<br>Phase 2, March 2015 | <i>“The Bank needs to improve how it enforces its Safeguards requirements, as well as how it mitigates the risk of non-compliance.”</i>  |
| <b>Put pressure</b>  |  |
| Consultation Meeting<br>Summary, CSOs, Indonesia,<br>Phase 1, December 2014  | <i>“The World Bank should put more pressure on the national and regional governments in having this Safeguard policy met and implemented.”</i>   |
| <b>Constrain</b>   |  |
| Consultation Meeting<br>Summary, CSOs, Romania<br>and Moldova, Phase 1,<br>March 2013                                | <i>“The World Bank should constrain the government to educate the population that is ‘not interested’, i.e., ordinary citizens who damage the environment the most (cutting trees, domestic waste in rural areas; etc.)”</i> |

Words may be used with very different meanings. For example, sometimes support may point to financial support, while other times, it may indicate the need for advisory support. Words can also be used in a rather ambiguous manner, mixing both the lack of constraint and constraint. For example, in an MS meeting, the summary of participants’ comments notes that: *“The Bank should support member states in their duty to protect against abuses that can arise in the context of Bank financed projects”* (Consultation Meeting Summary, MSs, Turkey, Phase 1, March 2013). Here, the use of the word support and duty signals the ambiguity of the World Bank role, in between non-constraining support and constraining enforcement. Similarly, in the World Bank Chief E&S Officer’s discourse, one can note two different uses of the word *“ensure:”* ensuring that the World Bank works with the Government, which is not outcome-focused, and ensuring that requirements are complied with, which is more outcome focused: *“it’s important that we reflect upon that and ensure that we work with those borrowers, those projects, to ensure that they can meet the outcomes we expect over a period of time based upon their existing resources.”* (Mark King, World Bank Chief Officer for E&S standards, Transcript, CSOs Forum, Washington DC, Phase 2, April 2014).

Additional difficulties regarding the definition of responsibilities are related to the difficulty of defining key terms of the policies. For example, during a Government meeting,

participants mentioned the difficulty of defining global risks, and therefore, challenges regarding the actionability of global risks assessments: *“It is recommended to increase the policy feasibility of ‘The environmental and social assessment will consider potential project related transboundary and global risks and impacts’ in Para. 33 of ESS1. Main reason: transboundary and global risks and impacts are hard to be accurately defined.”* (Submission, Government, China, Phase 2). Similarly, the link between definitional challenges and actionability challenges is underlined regarding *“project workers.”* One comment points to the fact that workers can be very different depending on their situation, especially underlining the importance of taking into considerations sub-contracted workers: *“In the scope of application of ESS2, ‘project workers’ is too narrowly defined as ‘people engaged or hired directly by the Borrower’. In reality 95% of workers are indirectly employed or engaged by the Borrower”* (Consultation Meeting Summary, MS, Bangladesh, Phase 2, November 2014). Another comment insists on the fact that different types of workers should entail different types of requirements: *“It is recommended that the exact meaning of ‘project workers’ be defined. Main reason: in practice, it is hard to ensure the same remuneration and conditions for the same work done by different types of workers and it is also hard for project implementing agencies to meet the requirement in the proposed ES Framework of ‘All project workers will be provided with facilities appropriate to the circumstances of their work.’”* (Submission, Government, China, Phase 2). Although this may be a way for a Part 2 Government to further pushback against requirements and promote a more nuanced approach to requirements, these statements also signal true definitional challenges. Many other types of definitional challenges arise during the consultation and exacerbate the difficulty to clarify responsibilities.

***Outcome-focused discussions: focusing on what do to, not who does what***

This ambiguity in roles and responsibility is exacerbated when the discourse is outcome-focused and the discussion is not around who is responsible, but rather what should be done. This may be inevitable when stakeholders channel their concerns and needs, which is distinct from determining responsibilities to address concerns and needs.

During the ESF consultation, this is often the case when the passive voice is used, showing that stakeholders are focused on what needs to be done, but not necessarily on who should do it. For example, the meetings summary can read: *“Lack of capacity to un-*

*dertake social assessment should be addressed and participation of Indigenous Peoples in the assessment needs to be promoted.*” (Consultation Meeting Summary, Experts Focus Group in Indigenous Peoples, Phase 1, October 2013 - March 2014). This may concern a wide variety of topics, and can be seen throughout the phases. For example, during Phase 2, a meeting summary from an expert focus group can read: *“Communities need to be consulted one last time at the end of the project cycle to close the ‘feedback loop.’ The last consultation should be used to show communities how their feedback was taken into account, and for them to report back if their expectations were met”* (Consultation Meeting Summary, Experts Focus Group on Issues Pertaining to Social Risk Management, Phase 2, March 2015). Similarly, a summary of a meeting with the China Government representatives reads: *“While the ESF requires professional judgment in many aspects, capacity building should be provided to PMOs, Bank staff and consultants to ensure quality and avoid deviations”* (Consultation Meeting Summary, Government, China, Phase 3, October 2015).

While this may particularly be linked to the nature of summaries, done by World Bank staff based on participants’ interventions, it still shows that the output of the consultation was more focused on the needs rather than the responsible parties.

Furthermore, while actors’ submission seemed more directed to the responsibility of the World Bank, the use of passive form also shows some ambiguities as to the modalities of who is responsible for what in propositions on what should be done. For example, a joint submission from CSOs in April 2013 can read: *“Local communities and indigenous peoples should be involved throughout the process of project planning, implementation and monitoring, as well as in the identification of critical natural habitat.”* (Joint CSOs submission on World Bank Forests and Natural Habitats Safeguards, April 2013)

When stakeholders channel their needs, this tends to focus the debate on how the World Bank may ensure certain outcomes (responding to stakeholders needs). A key debate regarding the World Bank’s monitoring responsibilities is whether monitoring can be expected to actually ensure certain outcomes, or whether monitoring responsibilities can be seen as complied with even though the expected outcome is not achieved (and if the second response, who should be held responsible for adverse outcomes where all means where appropriately put in place by responsible parties). As mentioned, CSOs intervening

on the ESF may be leaning more towards outcome-oriented speeches: *“In one project, they [World Bank staff] thought we found gender-based violence issues because we wanted the Safeguards to change. But in fact, we wanted to change the Safeguards because there were issues.”* (Interview, CSOs representative). World Bank staff, on the other hand, may associate a focus on outcomes with Borrower responsibility. Indeed, in a report unpacking what principled and outcome-based approach mean for IFC and the World Bank Group, BMZ finds the following: *“The model introduced by IFC and adopted in relevant aspects by regional MDBs aims for an upstream approach that is more focused on the formulation of expected outcomes, procedural flexibility, community participation, and also more conducive to client-capacity building. Ideally, the client is responsible for, and indeed the owner of, investment projects – not least by having more discretion and leeway. The balance between upstream and downstream is shifted towards the latter: IFC’s approach puts less emphasis on frontloaded prescriptions upstream and more emphasis on the client’s or borrower’s responsibility for effective implementation and supervision downstream. It should be emphasized that this approach is not at all incompatible with the World Bank’s early involvement in projects.”* (p. 17). The report does state that outcome-based means tracking outcomes, but with the understanding that Borrowers have the responsibility for outcomes, while IFC monitors: *“It should be noted, though, that, although clients have more responsibility, it is primarily IFC and not the client who develops and tracks the indicators.”* (p. 18).

### ***Practical ambiguities on the distinction between due diligence/supervision and implementation***

The World Bank’s answer on its OSER also ignores the World Bank’s role in practice in the writing of impact assessments supposed to be written by States, the pragmatic ad hoc financial and non-financial role the World Bank may play in remedying some project impacts, nor does it specify the relative autonomy of the States within the project’s framework. In fact, the line between who prepares and implements and who supervises may be blurred in practice.

First, the World Bank may take a more prominent role in preparing assessments and suggesting mitigation measures. This is particularly the case when Borrowers lack capacity: *“It’s up to them to do it, not us. We’re not going to do everything for them. Sometimes,*

*they think we're going to do everything for them (in terms of preparing environmental and social documents). But they need to get involved too. However, since these States are broke... And it's already not easy for us to have the experts. So, in conclusion, it's quite demanding.*" (Interview, World Bank Staff). As such, World Bank staff recognize that practice is a bit more complicated than the distinction between implementation and supervision on paper: *"It's a bit ambiguous. The Bank is overseeing what the Borrower is doing. In my experience, we are doing more than overseeing, we are doing things for some of our clients, especially in countries with low capacities. At the end of the day, we do more than overseeing. We end up doing the work for the Borrower. For instance, the terms of reference – sometimes, we have to draft them and send to the borrowers. Another example is the environmental assessment. Sometimes, Borrowers lack technical capacities on the environment. If we don't have that person in place, the work is going to be us. Reviewing environmental and social assessment. We see these things. When it comes to really start to prepare and implement the projects, in some situations, the Bank does more than what the Borrower does."* (Interview, World Bank staff). In some meetings, the lack of Borrower's capacity is also mentioned as a reason for the World Bank to step in and monitor contractors when the Borrower is not able to do so: *"The World Bank should be willing to assume some responsibility for monitoring the extent to which contractors are fulfilling labor obligations, as country systems with low capacity may not be able to guarantee compliance."* (Consultation Meeting, Expert Focus Group on Labor, Indonesia, Phase 1, March 2013). While this ambiguity when it comes to assessment *"should not exist in theory"* (Interview), given that the World Bank should stick to supervising, it still shows how this distinction is hard to maintain in practice.

Second, interventions of the World Bank at different stages of a project to support compliance is promoted by different stakeholders, including Borrowers themselves, thus resulting in an ambiguity, at least in the stakeholders' perception of the traditional distinction of roles between preparing, advising, monitoring. For example, some stakeholders argue that consultations in the context of World Bank projects should be conducted by the World Bank itself instead of the Borrowers: *"The Bank should conduct consultations at the community level to ensure that information is more accurate. It should also involve communities in the implementation of the projects that affect them. For example, the land titling project in Izabal was mentioned, where Indigenous Peoples did not receive*

a land title or have access to the land registry. The Bank should do consultations independently and not through the government.” (Consultation Meeting, MS, Guatemala, Phase 1, April 2013). One can also find ambiguous views on the World Bank’s role regarding other topics like biodiversity offset: “It was strongly recommended that the Bank be part of decision making on how to implement biodiversity offsets to ensure that they are implemented appropriately.” (Consultation Meeting, Government, Georgia, Phase 2, September 2014). When formulated by CSOs, this is often related to a lack of trust in Governments: “What if – one can expect (in certain cases) that government contractors are corrupted into writing benign expert reviews - contracted Environmental & Social Impact Assessments - often not explicitly lying, but diligently omitting relevant uncomfortable truths?” (Consultation Meeting, MS, Germany, Phase 2, November 2014). While the World Bank argues that its role should remain within the supervision realm to avoid conflict of interest, the perception of conflict of interest can also be applied to Borrowers who assess risk, design mitigation measures and implement the project: “The borrower is responsible for assessing risks and impacts as well as designing mitigation measures. This is a conflict of interest and should be separated.” (Consultation Meeting, MS, Vietnam, Phase 2, October 2014). Even when employing consultants, Borrower’s consultants’ independence might be put in question, pointing inuendo to the need for an independent body to have a role: “Participants further mentioned that Brazilian legislation does not permit conservation organizations to do ESIA studies and stated that this fact, coupled with lack of independence of consultants carrying out environmental assessment, can be another limiting factor in the biodiversity context.” (Consultation Meeting, MS, Brazil, Phase 3, March 2016).

### ***The complexities and ambiguities associated with the World Bank’s use of leverage***

As mentioned, the World Bank’s responsibility is intrinsically tied to its leverage. In particular, as explained with the contextual results, the ability to choose the loans, suspend or cancel loans, influenced by World Bank Management and approved by the Board, is determinant to the World Bank’s ability to enforce certain requirements onto its clients.

However, the exact leverage the World Bank uses is an open question that was revived as well during the ESF consultation. What is the exact leverage the World Bank uses to

pressure the States to comply with the World Bank E&S standards? In what situation? The use of the World Bank's leverage does not benefit from any public criteria. When asking World Bank staff or CSOs how Bank leverage is used, Bank leverage often seems to be used in an ad hoc or accidental manner: *"The use of the Bank's leverage is very political, so there are no criteria. It depends on who's there, who is the client, what's the problem. It depends on the President of the Bank, whether the person in charge want to make a statement or not. It's kind of accidental. I don't know whether the Uganda LGBTQ and the Uganda Transport project would have had the same reaction from the last World Bank President with the new World Bank President. I don't think the reaction would have been the same. It also depends on who is the client. It's easier to have leverage on China than leverage on Uganda."* (Interview). Bank leverage is shaped by the many World Bank organizational pressures, which, if enhanced, may completely shift the World Bank's responsibility given part of the World Bank's ultimate responsibility lies on its capacity to use leverage, as explained above with the contextual results. Similarly, in Phase 3, the Inspection Panel insists on how crucial it is to define the leverage the World Bank should use on Borrowers' in case of non-compliance with E&S standards: *"The Panel hopes that Management will clarify this change, and above all, whether there is any material alteration of the Bank's responsibility and accountability framework for harm that may be caused to affected people when the ESSs are not properly implemented. More specifically, what is the accountability framework under the draft ESF, and thus the requirements for the Bank to follow up on Borrower's obligations, should the Borrower not comply with the requirements of the ESCP and not meet the ESSs? (...) The Panel would also appreciate more specificity with respect to the roles and responsibilities of the Bank in carrying out the monitoring and implementation support for the Borrower's implementation of ESCP and ESSs. (...) The draft Policy notes that the extent of Bank's monitoring will be proportionate to the environmental and social risks of the Project and that "the Bank will provide implementation support regarding the environmental and social performance of the project, which will include reviewing the Borrower's monitoring reports on compliance of the project with the requirements of the legal agreement, including the ESCP." Under the draft Policy, it seems that the supervision responsibilities of the Bank stem primarily from information provided by the Borrower with a more "hands-off" approach from the Bank, while there does not seem to be any framework or criteria to*



*evaluate the quality of the information provided by the Borrower, or the methodology used in gathering it.”* (Submission, Inspection Panel, Phase 3, June 2015). This statement shows that while roles may be defined, with implementation on the one side and due diligence on the other, the devil is in the detail when it comes to OSER definition and even semi-independent bodies like the Inspection Panel, used to look specifically at the World Bank responsibility regarding project adverse impacts, may seek more clarity on key aspects like the way the World Bank actually uses leverage on its clients.

In summary, while the World Bank clearly states that its responsibility consists in conducting due diligence and supervising, as opposed to implementing, which is the Client’s role, this distinction is still characterized by lingering ambiguities related to the vocabulary used to describe this role, ambiguities in practice, and more generally, this does not provide a complete answer to the question of responsibility. Indeed, conducting due diligence and supervising does not necessarily mean that one does not have any responsibility for issues that may arise. However, it cannot mean that one has full responsibility for an issue that may arise. When appraising clients, this goes back to Ricoeur (1994)’s dilemma on prevention: the responsibility to anticipate and mitigate risks that may arise virtually expands the responsibility to any risks. If the World Bank did not identify one risk during due diligence, does it mean it is responsible or partly responsible for the issue that may arise from this unmitigated risk? At the same time, certain risks do have to be anticipated and mitigated. The question comes down to which risks the World Bank can reasonably anticipate. Similarly, for supervision, when not identifying an issue that has arisen in a project, is the World Bank’s responsible for this issue? Several granular scenarios can be imagined: if the client did not document this issue at all, if the client did document this issue but not in a document typically checked by the World Bank, if the client did document this issue in a document typically checked by the World Bank. Finally, when an issue has been identified by the World Bank through supervision, to what extent should the World Bank use leverage to resolve the issue? These questions show that the distinction between supervision and implementation does not exhaust the meaning of responsibility, and still leaves the door for many different questions.

It is precisely these vast margins of interpretations on the World Bank’s role that are debated during the consultation phases of the development of the World Bank’s frame-

work, both in the consultation meetings themselves and through various written submissions. To better understand the different types of position that were expressed on the World Bank OSER, the next sub-section shows how the coding exercise built on the responsibility definitional framework to show the emergence of two responsibility models: responsibility as ensuring compliance and responsibility as building capacity and ownership.

### **3.2.3 Two emerging responsibility models: enforcing compliance and building capacity**

I have shown that the World Bank responsibility is defined as a supervising/monitoring responsibility, which still implies key ambiguities in terms of the actual Bank's role in the project, based on the type of advice, review and due diligence provided, as well as the type of use of leverage by the World Bank. This opens the door to multiple controversies and negotiations on who is responsible for what. While I identified the question of leverage as key to defining responsibility mechanism, the description of actors' roles and influence over each other does not respond to how OSER should be defined. For this purpose, this study's responsibility definitional framework becomes instrumental, as it raises key definitional questions on responsibility: for what, to whom, which standard, what connection to the impacts (backward-looking, forward-looking, causal and non-causal?). As represented in Figure 18 below, these questions add up to the scheme describing the responsibility mechanisms, and further need to be investigated. When it comes to approving, advising and conducting due diligence and supervision, or assessing, implementing and reporting, the question of the object, beneficiaries and standards for these actions remain open. Moreover, whether one considers the power (either capacity or leverage), which determines the causality that can be associated with the actor and therefore its responsibility, the question remains open as to whether responsibility should be approached from a backward-looking, forward-looking, causal and non-causal perspective.

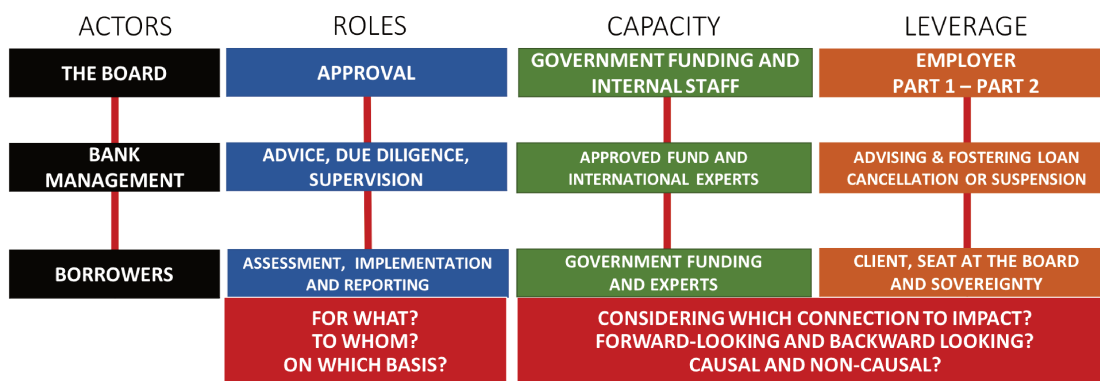


Figure 18: The World Bank’s responsibilities vis-a-vis States against the OSER definitional questions

Patterns of controversies around responsibilities surface throughout the ESF consultation. Looking at these patterns with the help of the responsibility definitional framework helps identify how the debate on the ESF consultation can be mapped to controversies on responsibility definition:

- Who is responsible? In this study, the World Bank: as this study concerns the responsibility of the World Bank, I focus on the World Bank as the responsible party. However, I will also show that certain patterns of arguments regarding the World Bank responsibility can be also found when it comes to States or contractor’s responsibility.
- For what outcomes is the party primarily responsible? During the ESF consultation, the debate about the nature and goals of development transpires, even if not tackled directly. From that perspective, what is development is a question that signals the need to determine the outcomes of the parties’ responsibility.
- On the basis of which standard is the party responsible? While there is no high-level theoretical questions on the moral standards, the ESF consultation does reflect the difficulty to determine the best standards: is the World Bank role purely economic or also political? Are human rights political? What are the legal norms that should have the primacy? On the basis of what rationale organizations intervening on development projects are found to be legitimate?

- To whom is the party responsible? The question of representativity during the World Bank ESF very much signals the dilemma: is the World Bank responsible towards its clients or the people?
- Forward-looking non causal responsibility. Responsibility for impacts that were not caused by the responsible party is not the focus of the current debates in the World Bank's realm, although certain CSOs and Governments do point at the World Bank's capacity as requiring the World Bank to act.
- Forward-looking responsibility to prevent and backward-looking responsibility: in the context of the policy debate, forward-looking responsibility to prevent and backward-looking responsibility (leading to forward-looking responsibility to repair) are interlinked, as the policy is essentially a forward-looking tool which will in the future, support managing both past and future impacts, thus slightly blurring the lines between backward and forward-looking responsibility. Whether prevention or reparation, the World Bank debates mostly focus on causal responsibility: as the causal link becomes more remote, the World Bank's OSER becomes increasingly controversial. Throughout the consultation, contentious issues have arisen in relation to FIs, supply chains, and the World Bank's responsibilities before and after project implementation. These issues, which revolve around the depth of the World Bank's responsibility, reflect practical questions regarding OSER, such as the determination of causal responsibilities.

In general, throughout the consultation, as mentioned, stakeholders' main positions are that CSOs and non-Borrowing member States promote E&S World Bank responsibilities and States obligations while Borrowing States, as Board members and clients, pushback against their obligations and against any World Bank pressure onto them. Borrowers generally argue that it is better for the World Bank to have a framework made of principles, as opposed to specific obligations. CSOs, on the other hand, encourage the expansion of E&S obligations and the fact that the World Bank has a strong responsibility in the management of E&S issues. While this distinction between CSOs and Borrowing States is heuristic, some nuance can be introduced. First, some government consultations show that Borrowing States sometimes defend the proliferation of E&S issues within the framework and CSOs may mention that different Ministries (typically, the Ministry of Economy

and the Ministry of Environment) may have a different take on E&S impacts. Second, on certain subjects, although CSOs may be more reluctant to set up very strict obligations, certain CSOs may be more ambiguous: this is particularly the case with child labor. While most CSOs argue that child labor should be completely prohibited, others defend the fact that it is necessary to support the family living conditions in some countries: *“Child labor is allowed in Tajikistan after age 14; it is good for children to earn money for the family. Participants asked how the Bank would work with this situation, and recommended that it rely on national legislation. (...) A participant asked about a situation where an 11 year old rural child needs basic school supplies and can buy them only if he works in cotton harvest – and whether he should be prevented from doing so. Forced child labor can be forbidden but not all child labor.”* (Summary Consultation, CSOs, Central Asia, Phase 2, November 2014). These nuances are also reflected in some CSOs submissions. While most CSOs are adamant that child labor is a no-go, some CSOs statement, especially in countries where child labor is frequent, are a bit less clear. For example, Egyptian CSOs note that *“The Bank should clearly define hazardous work activities and projects, and ensure that the relevant Bank staff in Egypt monitor these projects to ensure that no children are being employed. In the case where child labor is being used in these projects, employed children should be compensated according to minimum wage standards for child labor.”* (Statement by Egyptian CSOs on the World Bank’s proposed draft Safeguard Policies, Phase 2). However, such nuances from CSOs still represent a marginal pattern and the model of Borrower/Part 2 and CSOs/Part 1 position remains heuristic.

One key theme where CSOs and Borrowers have contrasting positions is in relation to risks. Risks are not emphasized in the same manner by different stakeholders. This may indicate the need to take that question into account when negotiations on responsibilities are conducted: what are the risks of being responsible? what are the risks of not being responsible? In a risk-management world, questions on responsibility are only addressed but through risk assessments, and while risks primacy may not define responsibility per se, it still represents a key dimension of the responsibility debate in organizational settings. Financial and operational risks are rather emphasized by Borrowers, which will focus on the cost and complexity of the Safeguards, threatening project effectiveness. Part 1 and CSOs, on the other hand, may rather emphasize risks to project affected communities

as well as reputational risks and the need to have a framework that rises to the level of good international practices on E&S standards to avoid diluting standards.

When analyzing the debates on OSER definition along the lines of the responsibility definitional framework (which questions are reiterated in the first column of the below table), I argue and delineate below that two types of discourses around the World Bank responsibility are clearly emerging during the consultation of the new ESF: the discourse of responsibility as compliance, with monitoring as the main associated action and compliance as the intended outcome, and the discourse of responsibility as capacity building, with support as the main associated action and ownership as the intended outcome.

Table 10: Responsibility models against OSER definitional questions

|   | <b>Responsibility to ensure compliance</b>  | <b>Responsibility to build capacity</b>  |
|---|---|--|
| <b>For what?</b>  | Need to promote Safeguards as necessary steps for development   | Need to find a balance between development objectives and Safeguards   |
| <b>On the basis of what standards?</b>  | Normative primacy of international best practices   | Normative primacy of national frameworks   |
| <b>To whom?</b>   | People  | Government and the people  |
| <b>Forward-looking non-causal responsibility</b>  | The World Bank is not responsible if everything is in compliance and there is not causal link to the adverse impact                         | The World Bank may be found responsible to the extent that it has more capacity than Borrowers to support remedial actions           |
| <b>Forward-looking responsibility to prevent adverse impacts or stimulate beneficial impacts</b>                                | Better prevention/stimulation measures need to be sustained by strong legal provisions establishing legal remedies.                         | Better prevention/stimulation measures need to be sustained by clarity on financial needs and strong financial support to Borrowers. |
| <b>Backward-looking causal responsibility for past adverse impact leading to forward-looking responsibility for such impact</b> | The World Bank needs to apply penalties and use penalties for the Borrower to restore compliance, or can be held responsible for the impact | The World Bank needs to support any compensation provided by the Borrower  |

Each can be seen as having very specific responses to key definitional questions on OSER. The Table above summarizes upfront the responses to the questions raised through responsibility according to these two models. This sub-section will describe the two models, and the next sub-section will provide more details on how the responses provided to each question of the responsibility definitional framework resonates with arguments and counter-arguments associated with these two models.

When asked about the two main challenges of the World Bank ESF, World Bank staff answered that two key challenges were the lack of capacity and the lack of willingness: *“What is going to be hard is going to be sourcing of material and child labor. The Board is worried about the capacity, and they are right to be. The other main challenge of the ESF will be political willingness.”* (Interview, World Bank staff). Indeed, when it comes to the World Bank’s responsibility, there is either the need to use leverage to ensure compliance (when there is a lack of States willingness) or build capacity to meet requirements and increase ownership (when there is a lack of States capacity). In some instances, Borrowers may argue that they lack capacity: *“The Bank safeguard policies and practices have helped domestic counterparts to make changes that they would not be able to make due to lack of intention or capacity.”* (Consultation Meeting Summary, Government, China, Phase 1, March 2013). However, CSOS and Part 1 may rather insist on the lack of will of Borrowers, as opposed to the lack of capacity: *“When considering the capacity of the Borrower, how does the Bank differentiate between lack of capacity and lack of political will? On LGBT rights for instance, how does the Bank deal with this if the borrower doesn’t agree there is an issue?”* (Consultation Meeting Summary, CSOs, UK, Phase 2, January 2015). Lack of will can be associated with the lack of incentives to stimulate Borrower’s willingness to comply with requirements: *“In PNG, non-adherence to regulations results from the lack of incentive, rather than the lack of capacity.”* (Consultation Meeting Summary, CSOs, Australia and PNG, Phase 2, February 2015). As such, CSOs and Part 1 call on the World Bank to strengthen monitoring in instances where non-compliances would be resulting from the lack of Borrower’s willingness: *“Borrowers will only be able to carry the burden of increased monitoring if they share the World Bank’s commitment with regard to Safeguards. The World Bank must address situations where there is no commitment from the Borrower or even actual resistance to Safeguards and must ensure effective monitoring in those cases.”* (Consultation Meeting Summary,

Government, Canada, Phase 2, January 2015). On the other hand, Borrowers, who focus more on lack of capacity, call on the World Bank to provide strengthened support to build capacity and increase Borrower's ownership vis-à-vis these requirements.

Both the responsibility to ensure compliance (through monitoring and use of leverage aiming at GIP implementation) and responsibility to build capacity (through support and aiming at ownership of Borrowers) can be seen as distinct models conveying very different responses to the key risk debates and responsibility questions described in the above sub-section. While discourses around leverage are often associated with the vocabulary surrounding monitoring and compliance, and the discourses around capacity building are often associated with the need of support and ownership, it does not mean that leverage cannot ultimately be used to build capacity and ownership, or that capacity building cannot be used to strengthen compliance. However, in the arguments conveyed during the consultation, building on the way arguments were articulated, the triangle leverage-monitoring-compliance and capacity-building-support-ownership both form two different responsibility patterns, which answer differently to the key fundamental questions of responsibility.

### ***Responsibility to ensure compliance***

Responsibility to use leverage promotes the imposition of international best practice standards on States, with the assumption that international standards go hand in hand with good development. This perspective is rather conveyed by CSOs and Part 1. Responsibility as leverage focus on the lack of States commitment and the need to “*enforce*” requirements and “*ensure*” compliance, and the beneficiaries of responsibility are the project-affected people: “*How does the Bank ensure full accountability of Borrowers to its citizens*” (Consultation Meeting Summary, CSOs, Tanzania, Phase 3, February 2016). The idea is that the World Bank needs to take measures if Borrowers are non-compliant: “*This Standard seems silent to – what measures would be taking by the Bank when borrower is not in compliance with this standard?*” (Consultation Meeting Summary, MS, Tanzania, Phase 3, February 2016). Leverage comes down to power over another actor to determine this actor's action. In the case of the World Bank, it is the World Bank's power over Borrowers: “*There are certain questions around the real power the Bank can exercise towards the borrowing countries to force them to enforce the Safeguards.*” (Con-



sultation Meeting Summary, MS, Guatemala, Phase 1, April 2013). The responsibility as compliance model is centered on the idea that the World Bank is responsible to use its leverage and to use elaborate incentive systems, especially in the case where the States lack commitment regarding E&S standards.

Safeguards, from the responsibility as compliance, are emphasized as being a constraint that needs to be imposed onto Borrowers, as opposed to a voluntary or aspirational standard, and CSOs, when raising questions around whether Safeguards are constraining tools, are often implicitly or explicitly promoting that they be constraining: *“Il serait bon de savoir si ces normes sont simplement des mesures incitatives ou bien des normes contraignantes.”*<sup>7</sup> (Consultation Meeting Summary, CSOs, Senegal, Phase 2, November 2014). While CSOs may emphasize the need for strong binding requirements, Borrowers, on the other hand, may emphasize the need for more flexibility: *“It is unclear why it needs to be legally binding, how often it will be revised, and the consequences when it is not properly implanted.”* (Consultation Meeting Summary, Government, Bangladesh, Phase 3, Novembers 2015).

The World Bank forward-looking responsibility to prevent or stimulate from the compliance-monitoring-leverage lens is for the World Bank to set up a strong monitoring system to be able to identify impacts and establish strong legal provisions to be able to use leverage on Borrowers if an issue is identified.

Strong monitoring is associated with a focus on compliance and the use of leverage: *“Under the current Bank monitoring system, safeguard issues do not appear to be sufficiently monitored. This should be strengthened, along with a penalty for non-compliance.”* (Consultation Meeting Summary, Development Partners, Afghanistan, Phase 3, December 2015). The World Bank monitoring role is particularly important in fragile states: *“Where governance or the rule of law is weak, participants asked that the Bank not completely devolve responsibility to governments, but rather also take responsibility for its role in contributing to potential detrimental effects on human rights through its lending. In this regard, the Bank should ensure that impact assessments carried out by the bor-*

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<sup>7</sup> Translation: *“It would be good to know if these standards are merely incentive measures or actual binding norms.”*

*rowers adequately identify potential adverse impact to communities likely to be affected.”* (Consultation Meeting Summary, MS, Switzerland, Phase 1, March 2013).

Leverage options are sometimes called the remedy toolkit at the World Bank, given that legal agreements provide for a different type of legal remedy (e.g., loan cancellation, suspension). In their search for strong leverage, CSOs may therefore request clarification on remedies options available or request that adequate remedies be used: *“Adequate remedy mechanisms need to be in place for cases when Borrowers do not follow ESS 5 [on resettlement].”* (Consultation Meeting Summary, CSOs, Canada, Phase 2, January 2015). While Borrowers are not promoting the use of legal remedies, they do foster as much clarity as possible on the use of such remedies: *“There were several questions about how the ESCP will be implemented. It was considered as something new that will be binding for the Borrower. Several wanted to know if it is included in the loan agreement and then there are project delays, will the project be cancelled?”* (Consultation Meeting Summary, Government, Indonesia, Phase 3, January 2016). Similarly, representatives of Honduras also asked for clarification on the use of suspension/cancellation leverage: *“Clearly defined contractual penalties associated with compliance with ESS (e.g. withdrawing payment) was identified as a good practice”* (Consultation Meeting Summary, Government, Honduras, Phase 3, February 2016). As such, there is a call for the development of refined instruments to use leverage: *“The major problem with Safeguards implementation is the enforcement of the national laws. Instruments that the World Bank can use to enforce the laws of the land in its projects need to be considered.”* (Consultation Meeting Summary, MS, India, Phase 1, April 2013).

Before the project, using leverage may mean not approving the funds for the project, based on no-go scenarios: *“The Bank should use a stricter clause here to state that it will not go on with a project where a primary borrower is in non-compliance.”* (Consultation Meeting Summary, MS, Nigeria, Phase 3, December 2015).

When a project is already approved, the use of leverage may include suspension of funds: *“What if - a borrower fails to stick to commitments (entirely or in part): The World Bank has rarely suspended disbursements? What other “sticking” penalties/remedies are available?”* (Consultation Meeting Summary, MS, Germany, Phase 2, November 2014). Under the compliance lens, if there is no way to ensure compliance, the World Bank’s

responsibility should be to disengage, according to CSOs comments: *“There is need for a veto mechanism to ensure that projects do not continue with negative impacts; it should be possible to review projects as implementation proceeds and actual rather than predicted impacts occur.”* (Consultation Meeting Summary, CSOs, Egypt, Phase 1, March 2013). Certain interviewees agree with this perspective, arguing that allocation of funds should prioritize compliant projects: *“The Bank has many remedies: loan disbursement, portfolios. Management may be averse to losing clients, but at the same time, Management should give the money to the States that are compliant with the requirements. If a State is not doing well, suspend the loan and give the money to a State which is.”* (Interview). However, in promoting disengagement, the question as to the criteria for no-go remains: *“There seems to be a lack of clearly defined limits or ‘redlines’ determining when the risks are too high to proceed with a project; ex-ante compliance should be a redline; redlines/limits must be linked to the Bank’s twin goals.”* (Consultation Meeting Summary, Government, Switzerland, Phase 2, December 2014).

Furthermore, it should be noted that disengagement, even if promoted in certain cases of non-compliance, is also a complicated issue. On the one hand; CSOs may argue for the need to use disengagement as a leverage, for example, stating that: *“In egregious situations, where extensive violations of human rights reach pervasive proportions, the Bank should disengage if it can no longer achieve its purposes.”* (Submission, Social Justice Committee of Montreal, April 2013). However, they may also argue that the World Bank needs to avoid actual disengagement, given that disengagement can be criticized as a way to look away from project issues and disengagement may be detrimental to development needs: *“How does this ESF hold governments accountable for human rights, especially when basic services, such as health, don’t work? How does the ESF hold the Bank accountable? Remember that when the Bank suspends lending, it is the vulnerable populations such as women and children who suffer.”* (Consultation Meeting Summary, CSOs, Rwanda, Phase 3, January 2016). This second perspective tends to nuance the view that the World Bank should disengage where standards are not applied.

Interviews of the World Bank Group staff were somewhat contradictory as to the actual use of suspension tools in World Bank projects. One interviewee working directly on project approvals responded that the World Bank, in their perspective, did not have many

sticks: *“Do we need to look at the remedy toolkit? In the remedy toolkit, we currently have early repayment, suspension of projects. But suspension is rare and it can be damaging. I am for a system with sticks and carrots. But at the Bank, there are not many sticks. There needs to be more thinking about the type of leverage the Bank uses.”* (Interview, US Chair Staff). This is in line with CSOs comment stating that the use of leverage is not sufficient: *“current consequences for non-compliance are insufficient (as is evidenced by the frequent occurrence of non-compliance)”* (Consultation Meeting Summary, MS, Nigeria, Phase 2, December 2014). CSOs may also ask for broader sanctions: *“A monitoring system should be set up to identify how many contracts have been terminated owing to noncompliance with Safeguards, and to broaden the range of sanctions that exist in the event of noncompliance.”* (Consultation Meeting Summary, CSO, Peru, Phase 1, February 2013). Another World Bank staff stated on the contrary that leverage was exercised: *“The Bank uses its remedies more than people think. The threat of the remedies has an effect that is undervalued. The remedies are not completely black and white: they also include partial remedies”* (Interview, World Bank Staff). The actual leverage exercise is difficult to double check and ascertain. It would require a wide amount of data on projects that were envisaged and not approved for E&S reasons or projects that were approved and further suspended or cancelled for E&S reasons. During the consultation, the example of the 2014 Uganda case, where Jim Kim threatened to disengage as he feared a recent change in the Ugandan law would lead to increase discrimination on LGBTI communities, is also brought forward to state that threats to disengage may backfire on communities: *“Just to touch on two points in closing, the question about how do we make sure that we don’t ignore LGBTI communities in projects going forward. The challenge we have, we all have really, is to find a way of being inclusive, of addressing the concerns and vulnerabilities of LGBTI communities in projects, but without putting them at risk. I know many of you have very firm views on what happened in Uganda, the backlash against the community there. So going forward, we have to be very, very cautious. As Jim said the other day, he’s still very firmly in the camp that we need to be inclusive; the issue is how we do that.”* (Mark King, World Bank Chief Officer for E&S standards, Transcript, CSOs Forum, Phase 3, October 2015).

Under the responsibility as compliance model, given that disbursement is a keystone of leverage, once funds are disbursed, leverage is noted as drastically decreased, thus

posing a challenging for achieving compliance with E&S norms on projects: *“Ce qui a bien fonctionné: (...) La possibilité pour la Banque mondiale de pouvoir suspendre ses décaissements en cas de non-conformité sur le plan environnemental et social de l’exécution d’un projet non encore clôturé. (...) Problèmes et difficultés : (...) l’incapacité juridique de la Banque mondiale, au terme de la réalisation d’un projet, à exercer des moyens de pression contre l’emprunteur en cas de non conformité du projet au niveau environnemental et social.”*<sup>8</sup> (Consultation Meeting Summary, MS, Ivory Coast, Phase 1, March 2013).

Given that as mentioned Borrowers foster monitoring and interventions of the World Bank on third parties, while they tend to pushback against the responsibility as compliance model when it comes to them, they promote this very model when it comes to Contractors (who also often are not sovereign entities). As such, third parties would typically incentivize penalties embedded in contractual legal provisions with contractors at the procurement stage: *“Contracts should be clear on environmental and social obligations and there is a need to include penalty and reward system in the contractor bidding documents to ensure compliance with E&S requirements. The Bank should consider some form of partial suspension of payment to contractors in case of non-compliance with E&S requirements. This would improve the awareness of contractors on the importance of E&S issues.”* (Consultation Meeting Summary, Governments, Vietnam, Phase 3, January 2016). In some cases, although they mention influence or leverage on Government for compliance, they also privilege the use of enforcement mechanisms for contractors: *“There needs to be close oversight on contractors, to ensure they are complying with the necessary rules, and maintaining rights of the workers. In the meantime, punitive mechanisms should be applied in case of noncompliance.”* (Consultation Meeting Summary, Governments, Egypt, Phase 3, January 2016). When mentioning the use of financial leverage, Borrowers also specify that this should be avoided for Borrowers and applied to Contractors: *“There should be effective mechanisms to penalize non-compliance with E&S standards and provisions. If public oversight mechanisms are too weak, a workable approach could be to use works contracts as enforcement platform, by e.g., making payments*

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<sup>8</sup> Translation: *“What worked well: (...) The possibility for the World Bank to suspend its disbursements in the event of environmental and social non-compliance during the implementation of a project that is not yet closed. (...) Problems and difficulties: (...) the legal incapacity of the World Bank, at the end of the implementation of a project, to exert means of pressure against the Borrower in the event of environmental and social non-compliance.”*

*contingent on due Safeguards implementation. However, penalizing the borrower should be avoided. Rather, it should be penalizing non-compliance by the contractor that would foster compliance with Safeguards requirements, in particular community and worker's health and safety.*" (Consultation Meeting Summary, Governments, Afghanistan, Phase 3, December 2015).

### ***Tensions linked to responsibility as enforcing compliance***

As put by IEG in 2010, one challenge linked to enforcing compliance is the fact that it does not trigger client ownership: *"The quality of design and appraisal has improved significantly since the mid-1990s. However, the implementation of the safeguard policies has meant enforcing compliance with mandatory policies and procedures, without engendering strong client ownership."* (p. xi).

Another challenge linked to enforcing compliance is the fact that it may be associated with a *"checking the box"* exercise, focused on complying with processual steps without necessarily being aligned with the spirit of the Safeguards in terms of outcomes. During the CSOs forum, this is already mentioned by the World Bank staff: *"So, how do we not lose the objective of having good environmental and social outcomes by excessively focusing on compliance? And then also, coming from many parties, how can we do this in a way that is more flexible and give greater recognition to the diversity and differences among countries?"* (Transcript: Statement by Stephen Lintner, World Bank Senior Technical Adviser on E&S issues, Phase 1, April 2013). As put by the UK in January 2016, commenting on the risk based approach consisting in spending resources proportionally based on the risks, *"the UK strongly supports the proposed risk-based approach. This should more efficiently and effectively target resources where they are most needed. It should move us away from an overly heavy focus on upfront compliance towards a greater emphasis on implementation and achieving the right outcomes. If done successfully, this approach should improve the treatment of environmental and social risks whilst ensuring projects are delivered in a timely and efficient manner."* (United Kingdom statement on the World Bank Safeguards Review, January 2016).

Comments also seemed to pushback against wording like compliance on the basis that this would be equivalent to interference, in line with the concern on sovereignty mentioned above: *"The overall tone of the framework and its formulation puts the borrower in a*

*submissive position. Words such as: Compliance / acceptable / unacceptable / national regulations / due diligence / compensation / Security - should be revisited. These are all examples of a direct interference in a country's sovereignty. When such notions as acceptance or non-acceptance are introduced, how are acceptance levels determined and by whom? For example, setting the standards of sustainable development in the environmental sector should be a social responsibility.*" (Consultation Meeting Summary, CSOs, Lebanon, Phase 2, November 2014). While this comment was made during a CSOs meeting, it does not correspond to usual patterns of CSOs comment and could have been made by the association of banks in Lebanon or other actors, also present at this meeting dedicated to CSOs – it still demonstrates that compliance vocabulary was associated by some stakeholders as not acceptable. In general Part 2 pushback against responsibility as compliance. Governments or stakeholder in MS meetings may rather talk about positive or attractive incentives (or carrots) and encouragements to have their buy in, rather than conditionalities and penalties (or sticks): *"Incentives to attract government commitment to comply with E&S issues should be provided."* (Consultation Meeting Summary, Government, Afghanistan, Phase 3, December 2015).

To respond to all of these tensions, an alternative model can be described, which insists on responsibility as capacity building through support to promote ownership.

### ***Responsibility as capacity building***

Responsibility as building capacity is centered on the lack of state capacity and resources, the cost of Safeguards, the fact that priority must be given to fragile States, and the issue of State ownership. It is not opposite to a compliance discourse, given that capacity building can strengthen compliance, but can sometimes be described as contrasting with the compliance lens. This was particularly emphasized in the 2010 IEG report at the dawn of the ESF consultation, before the ESF consultation was officially launched: *"The Bank's compliance-based approach is becoming less effective as its portfolio moves beyond traditional investment projects (which now constitute less than half of new lending across the World Bank Group). Greater emphasis on developing client ownership and systems is needed going forward."* (IEG, p. xiii).

This view is linked to a lack of capacity, particularly challenging when facing costly or time-consuming Safeguards requirements.

Government's lack of capacity has different dimensions, and stakeholders particularly discuss the lack of human resources and expertise and the lack of financial capacity:

- **Lack of human resources and expertise.** For example, this was raised by Sri Lanka representatives at the beginning of the consultation: “• *Build capacity of external consultants. They are not well informed about World Bank requirements.* • *Build capacity to supply contractors, as there is a shortage of contractors for dam works.* • *Educate communities about safeguard policies.*” (Consultation Meeting Summary, Government, Sri Lanka, Phase 1, April 2013). Moreover, Borrowers and their experts, even if competent and/or trained, may rotate at a fast rate “*Government staff rotation is high and many times the staff that gets the training and designs the projects, is not in charge of their implementation.*” (Summary Consultation, Government, Guatemala, Phase 1, April 2013). Bank consultants may also rotate quickly, which does not allow for a long-term relationship and perennial institutional memory of various trainings and implementation debut: “*there is a high level of rotation among Bank consultants that visit communities, which impedes close follow-up.*” (Summary Consultation, CSOs, Guatemala, Phase 1, April 2013).
- **Lack of financial capacity.** For example, this was raised by stakeholders at the end of the consultation: “*Sometimes there are delays in the payment of compensation because the government may not have the money to pay immediately or the government may only be in a position to pay partial compensation. How is this captured in the ESF?*” (Consultation Meeting Summary, MS, Rwanda, Phase 3, January 2016)

This lack of capacity is one of the major arguments to explain the incapacity to implement complex requirements. This view is mainly held by Borrowers and Part 2, who argue that the World Bank should be responsible for conducting Borrowers capacity building. This is also rooted in the arguments around the need to find a way for Safeguards not to be too costly for Borrowers for development to be made possible (as opposed to considering that Safeguards and development are synergetic).

This is consistent through consultation phases and regions. For example, India representatives argue that capacity building should happen both during preparation and



implementation: *“In taking up a development project, capacity building is very important both at an individual as well as at an institutional level. The added value of working with the Bank is not just that the financial support comes with a long tenor but also the expertise that the Bank brings. The capacity building pertaining to social Safeguards has two dimensions that have an impact on preparation and implementation of projects. While during the preparation, capacity building is valuable to get the people to understand the scope and objectives of the project, during implementation the focus should be to help understand what may be the process.”* (Consultation Meeting Summary, Governments, India, Phase 1, April 2013).

CSOs would also be concerned about the need for World Bank intervention to familiarize Governments with the ESF: *“This ESF is a long and complicated document. How will you make it understandable to people in the borrowing countries? Is there a way it can be simplified and made more accessible?”* (Consultation Meeting Summary, CSOs, Madagascar, Phase 3, January 2016). CSOs may particularly concur with Borrowers pointing to the need to build certain specific capacities: *“World Bank interventions on the governments are also promoted to build capacity of specific departments, signaling internal governmental dynamics between different State departments: In PNG, the Department for Environment is very marginal and not well-funded. The Department itself should be strengthened, but the Bank should also encourage the government to strengthen the Department.”* (Consultation Meeting Summary, CSOs, Pacific – Australia and PNG, Phase 2, February 2015). CSOs also emphasize that the help of local CSOs can be used to promote national capacity building beyond government capacity building: *“I would like to emphasize that the Bank must show more openness for engaging grassroots organizations or persons with disabilities because these are people who can provide the expertise, the capacity to help the Bank in fulfilling its commitment towards issues of inclusion and accessibility. Yes, we know that governments might be a barrier for that, but I think with the help of the World Bank engaging grassroots organizations, we can make a difference and we can solve lots of problems pertaining to issues of capacity building because this is one of the key issues that we are still facing, the lack of capacity building at the Bank, at the governmental level and at even civil society level concerning issues of disability rights and inclusion.”* (Statement from Mohammed Loutfey, CSOs representative, CSOs forum, 2015). Towards the end of the consultation, Board member

confirm commitment to support Borrowers, but with very general statements: *“The U.S. underscores the importance of both the World Bank’s support to borrowers throughout the project cycle, and greater clarity on the World Bank’s role”* (Submission, Statement from Mr. Matthew T. McGuire, Executive Director for the US, Phase 3, July 2015).

Responsibility as building capacity is often oriented towards Borrowers’ ownership of the Safeguards. Ownership often goes with passing on many of the World Bank’s responsibilities to the Borrowers and Borrower’s ownership is therefore often associated by Borrowers with the need for simplification.

Indeed, this discourse on capacity is often associated with the need for simpler Safeguards, with less requirements, in order for low-capacity stakeholders to have the capacity to own the Safeguards: *“The procedures that will guide the implementation of the Environmental and Social Framework should be as straightforward as possible. For instance, it would not be possible to give loans to small producers if they have to prepare environmental and social studies and meet strict environmental and social requirements.”* (Consultation Meeting Summary, Private Sector, Paraguay, Phase 1, November 2014). The idea is to enhance the practicality of the Safeguards to foster implementation: *“The current policies have weak enforcement, and the harsh conditionalities attached prevent many people from being involved. The new Safeguard Policies should be easier and more convenient to use”* (Consultation Meeting Summary, MS, Japan, Phase 1, January 2013). World Bank IEG has a more nuanced approach: enhancing capacity should be associated with flexibility but should not mean less requirements: *“A paradigm that is based on more relevant thematic coverage, procedural flexibility (but without compromising on the integrity of standards), and client responsibility and capacity for monitoring seems to lead to more client ownership.”* (IEG, 2010, p. xx). At the same time capacity building is perceived as an opportunity to enhance Safeguards implementation ownership and allow for a higher and more sophisticated level of standards: *“Experience has shown that interventions aimed at building capacity to establish and maintain systems in a risk management framework have raised operational standards. Training initiatives for different sectors have helped to develop human resources qualitatively. Capacity building on audits has assisted in re-evaluating borrower systems and in upgrading in areas where improvement is needed. Technical assistance studies done under the Bank’s aegis have helped in building organi-*

*zational capacity and skill bases.”* (Consultation Meeting Summary, Governments, India, Phase 1, April 2013). Building capacity through the use of guidance from this perspective would minimize the risk that standards just become a checking the box exercises: *“A view was expressed that extensive guidance on human rights issues in the context of development projects is necessary to ensure that upholding Safeguards or human rights standards does not become a matter of “checking the box.”* (Consultation Meeting Summary, Expert Focus Group on Human Rights, US, Phase 1, April 2013). Beyond the checklist which is perceived as cumbersome by both the Bank and Borrowers, Governments may promote the idea of a more practical partnership to support better outcomes: *“The introducing of the Framework should be made in the spirit of partnership between the Bank and the borrower. Otherwise, the Framework will become just a checklist.”* (Consultation Meeting Summary, Government, Australia and PNG, Phase 2, February 2015).

Building capacity and ownership can also be associated directly with the use of the country systems. Indeed, both proponents of more simplicity or more flexibility to foster strengthened capacity and ownership suggest that there is a need to emphasize the use of the country systems in order to increase States ownership: *“Country ownership of climate change approaches would be improved if Safeguards were built on the country’s own safeguard system and embedded in national emission reduction and climate resilience strategies.”* (Consultation Meeting Summary, Expert Focus Group on Climate, Mexico, Phase 1, April 2013). Governments insist that capacity building should pass by the use of their own framework, in line with their intent to avoid using the ESF: *“The Bank’s intention to strengthen its partnership with borrowers through increased use of borrower frameworks and close cooperation with borrowers to build and strengthen their environmental and social risk management capacity is the direction to go and should be reflected in framework.”* (Consultation Meeting Summary, Government, Kenya, Phase 3, February 2016).

Under the capacity building and ownership lens, responsibility is focused on World Bank *“support,”* as opposed to monitoring, as the idea is to build capacity and further rely on Borrowers to promote Borrower’s ownership. This includes support through the expertise but also direct financial support, either through project funds or trust funds.

As the ESF progressively suggests that Borrowers take on more responsibility and have ownership of E&S standards, Borrowers are eager to understand how the World Bank will actually support them: *“As the Bank shifts responsibility to the Borrower, participants wished to know at which stage of the project the Bank would provide support. (...) A Participant emphasized that the word “commitment” is used repeatedly throughout the Framework, which entails a huge burden on the Borrower. In the case where the institutional capacity of the borrower is not sufficient, the Bank should provide clear tools to support capacity building, and ensure qualified persons handle the projects from the Borrower’s side.”* (Consultation Meeting Summary, Governments, Egypt, Phase 2, October 2014).

In order to gain capacity and project ownership through the use of World Bank resources, Borrowers may particularly request financial support, trainings, and other types of assistance: *“World Bank was asked many times to provide: (i) financial support; (ii) training; and (iii) general help and assistance to strengthen capacities of local stakeholder and to help them understand and implement the new Safeguards framework.”* (Consultation Meeting Summary, Governments, Madagascar, Phase 3, December 2015).

Borrowers, in general, insist on the fact that the cost associated with the Safeguards should be part of the project costs: *“From the very outset (the project design stage), thought should be given to financing the actions required under the Safeguards as a specific component, so that the resources from the loan may be used during the implementation of the project. Additional funding may be required for safeguard application.”* (Consultation Meeting Summary, Governments, Brazil, Phase 1, March 2013). Using project cost may apply to monitoring: *“The cost of monitoring the ESCP should be counted in the project cost.”* (Submission, Governments, China, Phase 3). It can also apply to compensation: *“A participant sought clarification on why compensation costs are not paid as part of the loan.”* (Consultation Meeting Summary, Governments, Ethiopia, Phase 2, November 2014). Another comment from Borrowers suggests that World Bank support be established through additional financing, with the use of a trust fund, instead of using project finance: *“The World Bank should establish a multi-trust fund to prevent governments from using borrowed funds to implement the ESF.”* (Consultation Meeting Summary, Governments, Kenya, Phase 3, February 2016). Trust funds are directly tied to capacity building:

*“The ESF has serious financial operational implication for a borrower whose resources is already slim– who bears the cost for such additional burden such as detailed reporting on GHG emissions? Is the Bank going to assist clients build their capacity through trust funds?”* (Consultation Meeting Summary, Governments, Nigeria, Phase 3, December 2015). In terms of what the World Bank should pay for, Borrowers may suggest that the World Bank fund third party assessment. For example, while the China Statement on the Safeguards during Phase 2 states that *“The main purpose is to avoid excessively heavy workload and excessively high costs to implementing agencies as a result of too many artificial factors and undue correlation,”* it also insists on the need for World Bank’s intervention to finance third party analysis: *“It is recommended that the Bank finance the employment of third-party monitoring specialists/agencies. Main reason: financing the employment of independent third-party specialists/agencies by implementing agencies to carry out monitoring activities involves conflict of interest”* (Submission, Governments, China, Phase 2). Borrowers may also request the World Bank to fund consultation and grievance redress: *“There should be money available by IDA for the Borrower to undertake certain activities (especially to organize the consultations and grievance redress). People who are familiar with Bank supported projects should know about this”* (Consultation Meeting Summary, Governments, Madagascar, Phase 3, December 2015). While strong Borrowers are requesting support, the need for World Bank financial support is also particularly emphasized by small States and for low-capacity states like FCVs (especially as these have less options to pushback against the World Bank’s requirements): *“Increasingly onerous World Bank lending requirements are making access to resources more difficult for small states. The new Framework should promote easier access to World Bank resources for small borrowers.”* (Consultation Meeting Summary, Governments, Barbados, Phase 2, January 2015).

One side but important note has to be made on capacity. Indeed, as already mentioned, capacity is one dimension of responsibility, and one should not that there is only limited World Bank responsibility without any World Bank capacity. The capacity of the World Bank staff is key for the World Bank to meet its responsibility whether understood under the compliance or capacity building lens. Indeed, the World Bank’s own capacity is particularly emphasized as a key topic of concern by the World Bank’s Board, and especially Part 1. For example, the US 2015 submission state that *“The World Bank has*

*stated that the new proposed Safeguards framework will require even more professional capacity and judgment on the part of its Safeguards staff than the current system. We agree with that assessment and strongly emphasize the importance of ensuring that the World Bank has a sufficient number of environmental and social expert staff with the requisite experience and skills to deliver on the vision and ambitions of the new ESF. It is also critical that incentives for both Task Team Leaders and Safeguards staff align with this new approach.*" (Submission, US, Phase 2, March 2015). Similarly, the UK insists on required internal skills: *"It will also be critical that the Bank has the right staff with the right skill set in the right places to be able to appropriately monitor, manage and update the risk profile of its portfolio without creating additional burdens"* (Submission, UK, Phase 3, January 2016). This is also emphasized by South Africa Government representatives: *"The Bank should also assess the implications of the proposed Environmental and Social Framework on its own internal capacity if it is to be able to provide the required support for clients."* (Consultation Meeting Summary, Governments, South Africa, Phase 3, November 2015). It does not come as a surprise that Board members would be particularly insisting on these points as they are the ultimate body that financially support the World Bank capacity (while the World Bank financially support Borrower's capacity). In addition to looking at the World Bank under this responsibility as capacity model, it should also be noted that internal World Bank staff can also be subject to responsibility as compliance model, as questions are raised by CSOs as to the individual accountability of World Bank staff in the case of non-compliance: *"Are individual staff held accountable when Bank-funded projects do not meet safeguard standards or other operational policies?"* (Consultation Meeting Summary, CSOs, Sweden, Phase 1, January 2013). In this case, stakeholders may also suggest that penalties should be applied: *"Accountability of the World Bank itself should be established, especially, in cases where a particular project has led to negative impacts of the environment and its people. This could be in the form of reparations and penalties and sanctions for officials and personnel found to have a direct hand in the approval or management of such project."* (Consultation Meeting Summary, MS, Philippines, Phase 2, January 2015). While the link between institutional accountability and individual accountability in organizations would be worth studying, this study, as well as the ESF consultation, rather focused on institutional accountability.

Now that I have clarified the usefulness of the responsibility as compliance and responsibility as capacity building models to understand patterns of comments on OSER, I am going to dive into how these two models provide different responses to key definitional responsibility questions.

### **3.2.4 Responsibility as ensuring compliance and responsibility as capacity building under the lens of the responsibility definitional framework: different responses to key definitional responsibility questions**

Each response to different definitional responses forms a pattern of arguments which can be defined as the model of responsibility as compliance or the model of responsibility as capacity building.

Consistency of patterns of arguments under the compliance and capacity building lenses tend to show that each model can be associated with a series of distinct responses to key definitional responsibility questions. These responses form distinct argumentative patterns that can be identified as either the compliance model of responsibility or the capacity building model of responsibility. Essentially, the diverse responses to questions related to OSER constitute the different models.

Moreover, the remarkable consistency in patterns and the interconnectedness of responses within the responsibility as compliance model imply that each response to a particular OSER question (e.g., “*for what*”) influences and aligns with responses to other OSER questions (e.g., “*to whom*”). In other words, the models not only reflect but also shape the various answers given to key definitional OSER questions.

Diving into responses to OSER definitional questions also offers insights beyond these models on how each OSER question is approached and the complexities of arguments, if not rhetoric, surrounding each response to OSER definitional questions.

#### ***For what outcome is the party primarily responsible?***

The analysis points to two different answers to the “*for what?*” OSER definitional question: responsibility as compliance patterns of comments will rather focus on the need to

promote Safeguards as a necessary step for development, while responsibility as capacity building patterns of comments will rather focus on the need to find a balance between development objectives and Safeguards, as summarized in Table 11 below.

Table 11: Responsibility models against OSER definitional questions

|  | <b>Responsibility to ensure compliance</b>                    | <b>Responsibility to build capacity</b>                              |
|--|---|--|
| <b>For what is the World Bank responsible?</b> | Need to promote Safeguards as necessary steps for development | Need to find a balance between development objectives and Safeguards |

Indeed, when defining responsibility, one question is what is the World Bank responsible? From a strategic point of view, the question is that of “*development*”: depending on what one construes as development, there may be different interpretations of DFIs responsibilities regarding OSER, provided that DFIs are responsible for development as development association. In this sub-section I show how Borrowing States associate responsibility on E&S impacts to a hindrance to development, while CSOs agree that responsibility for E&S impacts is in line with the development agenda.

On the one hand, Borrowing States will argue “*development*” requires compromises if not E&S sacrifices. Borrowing States argue that risk aversion and heavy procedures in relation to E&S impacts do not ultimately serve their development: “*crowding out major development opportunities because of legalistic and procedural issues should be avoided*” (Consultation Meeting Summary, Governments, Sri Lanka, Phase 1, April 2013). Borrowers especially advance that development projects may be both risky and necessary and that complex Safeguards could hinder undertaking complex projects, and, in particular, their capacity to undertake such projects: “*If this reform process leads to increased requirements for more comprehensive and integral Safeguards, project preparation could become more complicated, and there could be a tendency to select simple projects that are easier and quicker to prepare. (Safeguards can involve extensive work in the preparation stage, a period when decisions must be taken with a view to deadlines, which are usually short)*” (Brazil Government submission, Phase 1, March 2013).

Borrowers further argue that impeding projects by multiplying requirements will affect the people: “*the added complexity to project design and implementation of the proposed*



*Safeguards can represent an impediment to the very benefit of those excluded from the development process.*” (Government Submission, Brazil, Phase 2, December 2014). They therefore argue that Safeguards may conflict with development objectives: *“cumbersome requirements by the Bank vis-a-vis Borrower’s circumstances may (...) prevent the achievement of the proposed development objective through the envisaged project”* (Brazil Government submission, Phase 2, December 2014). Some comments in Governments meeting point to projects that were closed due to the application of World Bank requirements, focusing on the fact that this had adverse E&S effects: *“Most consultations do not provide positive feedback. For example, there was a project for which a consultation meeting (that the Bank insisted on having) ended in a shouting match. There was so much resistance that, while it would not have wished for this outcome, the government dropped the project from World Bank financing.”* (Consultation Meeting Summary, Governments, Turkey, Phase 3, January 2016). The tension between development and Safeguards is also underlined by the staff of the World Bank: *“In the case of fragile countries, environmental and social considerations are the ones to which we pay the most attention and we go there less and less because the risks are high, when that would be the best recipients for our support. In a fragile post conflict country, we may have a mining project employing underage children. In general, these children represent the only source of household income. Are we forbidden to intervene in this sector on the pretext that there are working children? It poses a pretty strong moral dilemma. You have to be pragmatic”* (Interview, World Bank staff). Participants in an MS meeting also commented that: *“It is not in the spirit of development cooperation to be completely risk averse. Nevertheless, the Bank still has a responsibility to set a global standard.”* (Consultation Meeting Summary, MS, Switzerland, Phase 2, December 2014). In the face of this perceived conflict between Safeguards and development, States therefore advance that there is a need to find a middle ground between Safeguards and effective development: *“There is a need to strike a balance between Safeguards and getting the job done on the ground.”* (Consultation Meeting Summary, Governments, Switzerland, Phase 3, March 2013).

Borrowing States pushback against Safeguards on behalf of development is also increased by the perception that Borrowers are not benefiting from the same development trajectory as non-Borrowing countries, and are imposed standards that are as stringent if not more stringent than non-Borrowing countries. For example, questions like *“Is this ESF*

*applicable to non-borrowing countries?”* (Consultation Meeting Summary, Governments, Rwanda, Phase 3, January 2016), surrounding the applicability of the ESF to developed countries, seem to point to this worry on the part of Part 2 countries. One World Bank staff also suggested in the interviews that development and international standards on human rights may actually need to be implemented sequentially: *“Esoteric human rights are not helpful in a world full of compromises. Management is not free. Countries have to develop in some order. Institution, politics first.”* (Interview, World Bank staff).

On the other hand, CSOs will argue that development must be done while minimizing adverse E&S impacts, if not maximizing positive E&S impacts. In their view, development and Safeguards are aligned and synergetic: for some CSOs, there is no actual development without proper E&S Safeguards implementation. For CSOs, Safeguards development is one key instruments in the wider development journey: *“Oxfam is working with the Asian Development Bank on Safeguards for food security that include land and other issues as comprehensive baseline assessment which is a sustainable development issue, not just a no-harm issue. The Bank could learn from this new approach.”* (Consultation Meeting Summary, MS, Melbourne, Phase 2, February 2015). This indicates how they consider that there is a synergetic alignment between development and Safeguards as doing more development good. This is also in line with a push for the do more good agenda to be enshrined in Safeguards beyond do no harm: *“Il est nécessaire d’aller au-delà de l’indemnisation ou de la compensation. Les populations affectées par les projets doivent bénéficier des avantage”*<sup>9</sup> (Consultation Meeting Summary, CSOs, Senegal, Phase 2, November 2014).

Project schedules are not necessarily aligned with either Safeguards or development from a CSOs perspective: while Borrowers say that Safeguards impede project schedules and development, CSOs’ arguments rather consist of stating that project schedules impede the sound implementation of Safeguards and development: *“Pressure from the government and the World Bank regarding project schedules can impede effective participation of communities in Ethnic Minority areas as community participation often takes time to achieve”* (Consultation Meeting Summary, Indigenous Peoples, Phase 1, October 2013-March 2014). CSOs argue that rather than impeding engagement with the World Bank,

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<sup>9</sup> Translation: *“It is necessary to go beyond indemnification or compensation. The populations affected by the projects must benefit from projects’ advantages.”*

Safeguards should be seen as a way to strengthen engagement from investors on projects: *“The legal aspects of the Safeguards should act as a catalyst to engage rather than avoid risk.”* (Consultation Meeting Summary, CSOs, Egypt, Phase 1, March 2013). Beyond avoiding risk, the World Bank second draft (consulted during Phase 3), as well as the World Bank final ESF, also recognize both a do no harm and a do more good agenda, with the added phrasing: *“The Bank’s vision goes beyond ‘do no harm’ to maximizing development gains.”*

This difference in responses may be due to a slight shift in the definition of development: indeed, while development appeared before the Safeguards, the notion of sustainable development increasingly gained momentum after the invention of the Safeguards. If development now encompasses sustainable development, it more easily subsumes and is synergetic with E&S Safeguards. The question of development as instrumental to have criteria to assess how Safeguards met their objectives is also brought up during the consultations: *“It would important to understand and to clarify how the Bank defines ‘sustainable development’ including whether the Bank would reject the financing of projects if they contribute to increasing poverty and unsustainable development”* (Consultation Meeting Summary, MS, South Africa, Phase 3, December 2015).

Distinct patterns of responses can also be identified when it comes to the question of the beneficiaries of responsibilities: to whom is the party responsible?

### ***To whom is the party responsible?***

The question of OSER beneficiaries is a key one that also divides arguments to promote either OSER as compliance and OSER as capacity building, although the argument is essentially the same from all sides: that the opposite party does not represent the right interests.

The World Bank may be framed as representing Borrowers and/or the development *“beneficiaries/affected people,”* and patterns of arguments pointing to one model of responsibility tend to provide one or the other answer, as summarized in Table 12 below. Indeed, stakeholders promoting responsibility as compliance may particularly argue that the World Bank should represent the people. Stakeholders promoting responsibility as capacity building may rather tend to argue that the World Bank represents its clients. Of

course, capacity building may be ultimately a way to support good development for the people, but the patterns of arguments around capacity building rather point to the need for the World Bank to focus on its clients as governments, and a keystone to secure the people’s interests. Some stakeholders, on the contrary, may argue that States’ interests are not in line with the people’s interests.

Table 12: Responsibility models against OSER definitional questions

|   | <b>Responsibility to ensure compliance</b> | <b>Responsibility to build capacity</b> |
|---|--|---|
| <b>To whom is the World Bank responsible?</b> | People                                     | Government and the people               |

The key question is that Governments (and through the Governments, the World Bank) may be accused of not representing their own communities. As put by one interviewee: *“Communities are not the Bank’s client, even if development should be oriented towards the people. Governments are the Bank’s clients. And government may or may not care about the people.”* Some CSOs representatives therefore point to the need to distinguish governments as an elected body and the country general interest: *“Regarding the term ‘borrower,’ it is important to note that this usually implies the country’s government, whereas the borrower is the country as a whole and the government is only its representative. Sometimes the views of the government and the population don’t coincide.”* (Consultation Meeting Summary, CSOs, Georgia, Phase 1, March 2013). Even governments interlocutors within the community may be accused of not representing the community’s interests: *“it is worth considering that traditional leaders are gatekeepers and they may not always reflect or represent the views of the communities concerned. This raises the issue of the representation and elite capture and the degree to which such leaders represent the interests of the communities. Working through traditional leaders in consultations on land related issues would make a lot of sense if it were clear that they are truly representative of community views.”* (Consultation Meeting Summary, CSOs, South Africa, Phase 3, December 2015). CSOs therefore insist on communities’ involvement throughout World Bank projects, and the need to actively inform, engage and consult communities at different stages of the project.

They also insist on the idea that people are not currently beneficiaries but rather affected by projects: *“The Bank’s projects affect indigenous communities but do not benefit them.”* (Consultation Meeting Summary, MS, Guatemala, Phase 1, April 2013). They emphasize the need for the World Bank to be better accountable to affected people: *“participants inquired about how the Bank will help people who fight for governance and who are oppressed by some Borrowers.”* (Consultation Meeting Summary, Governments, Belgium, Phase 3, January 2016). However, they point to the tension inherent to World Bank projects as to the actual beneficiaries of projects: one example is a comment made in the context of project benefits costs, pointing to the fact that the need to reimburse loans leads to the need for the project to be profitable, thus leading to project benefits costs that may be too high for the local people, and exportation to be the preferred government option in such cases, although this may not allow local people to benefit from projects benefits: *“The World Bank’s commitment is to end poverty. But the question is whose poverty, and whose sustainable development. Most of the electricity to be generated from the Bank and other donors’ hydropower projects in Nepal are set to be exported abroad or away from the people to whom the river belongs, and it has not contributed and will not contribute to ending poverty or result in sustainable development of affected communities.”* (Consultation Meeting Summary, MS, Nepal, Phase 2, November 2014).

One can note that this duality of possible representation can also be applied to CSOs which can be described as representing the people or their own interests. Of course, accusations of representativity deficiencies are rather channeled by stakeholders with opposite views.

For example, governments may accuse CSOs of not being as representative as they may claim: *“The Bank should be attentive to the fact that sometimes, powerful individuals with different interests might complain or push public consultations to stop a project simply because their voices are louder. The issue of representativeness should be taken into serious consideration.”* (Consultation Meeting Summary, Governments, Egypte, Phase 1, March 2013). This is especially raised as a concern as CSOs are not elected, when most Governments are established through elections: *“CSOs are unelected so it is not always clear whose interests they serve? National interests must supersede any other individual party’s interests.”* (Consultation Meeting Summary, Governments, Kenya,

Phase 3, February 2016). As such, Borrowers may raise the need to verify the claims of NGOs: “*NGOS, politicians, and demonstrators do not always properly represent the communities that they seek to protect. How does the World Bank verify the reliability of claims?*” (Consultation Meeting Summary, Governments, Kenya, Phase 2, February 2015).

Communities opposing a project can also be accused of not representing the countries’ interest as a whole: in a government meeting in Peru, participants “*underscored that the final decision on whether or not to move forward with a project remains with the government and that communities do not have veto power.*” (Consultation Meeting Summary, Governments, Peru, Phase 3, November 2015). In another Government meeting in Kenya, the question is also raised: “*when pursuing consent from stakeholders and communities, at what time does the borrower draw a line to say the interests of the country is more important than objections of a group or individual?*” (Consultation Meeting Summary, Governments, Kenya, Phase 3, February 2016). This argument is also channeled by Development Partners: “*The affected communities are the minority for all stakeholders in development projects. While the Framework focuses on the affected communities, it is important to ensure that the welfare of the majority will not be sacrificed for that of the minority. A more holistic approach would be necessary.*” (Consultation Meeting Summary, Development Partners, Phase 2, November 2014).

While accusations of representativity deficiency can be made for any stakeholders, the question of Borrowers’ representation of their people is a key aspect that structures the patterns of responses to OSER definitional questions. Indeed, if one assumes that communities are not well represented by their governments, then one may be more prone to promote the need to use international standards as opposed to national frameworks. Below, I describe the relevant responses to questions related to the standards on the basis of which the party should be responsible.

### ***On the basis of which standard is the party responsible?***

Responsibility as compliance and responsibility as capacity building can also be seen to provide two different answers to the question of “*standards*” on the basis of which responsibility should be defined. As summarized in Table 13 below, while comments on

responsibility as compliance tend to focus on international standards, comments promoting capacity building tend to focus on the normative primacy of national frameworks.

Table 13: Responsibility models against OSER definitional questions

|  | <b>Responsibility to ensure compliance</b>        | <b>Responsibility to build capacity</b>  |
|--|---|--|
| <b>On the basis of what standards?</b> | Normative primacy of international best practices | Normative primacy of national frameworks |

At the World Bank, practicality reigns supreme among its practitioners, leaving little room for theoretical debates on moral standards. While controversies surrounding moral standards may not take place as in-depth philosophical discussions, the question of relevant standards to define OSER does transpire through the ESF debates, in particular when it comes to discussing organizational legitimacy to intervene.

On the one hand, certain actors justify the influence of the World Bank because:

- The World Bank has financial leverage during the projects which allows the World Bank to be legitimate in its interventions onto the project.
- The World Bank has E&S expertise that legitimizes its relative influence over countries that lack E&S capacity.

This is in line with responsibility as compliance: the use of leverage to impose international standards onto Borrowing countries.

On the other hand, some actors argue that the World Bank should have a limited role because:

- The mission of the World Bank is ultimately to allow the countries to which it provides financial assistance to develop themselves, and therefore to favor the control of these countries over their projects, without favoring a dependence that would put these countries under the yoke of an international organization.
- States are sovereign and their sovereignty should not be disturbed by the influence of an international organization.

- (Some) Government are elected and the virtue of being elected provides States with more legitimacy to make decisions than appointed staff at the World Bank level.
- The World Bank's responsibility is limited by its mandate.

This focus on States ownership is in line with responsibility as capacity building model: the World Bank should aim at enhancing States ownership, and therefore work with the States as partners and based on the States policies rather than imposing norms from the outside.

Beyond this distinction, one has to note that discussion on the relevant “*standard*” for the World Bank have different dimensions: political, historical, and legal, as described below, through the debate on the World Bank (a)political mandate, a historical debate on the World Bank's legitimacy to intervene, and the question of norms primacy. In this sub-section I show how Borrowing States argue that their standards should prevail, while CSOs argue that international standards should prevail – both using political, historical and legal arguments.

***Responsibility standards: (a)political considerations.*** The World Bank political prohibition clause, enshrined in the World Bank's Articles of Agreement, is used to argue that the World Bank should not intervene in certain domains which are under political organizations' responsibilities or used to stay away from some requirements, depending on the point of view.

Indeed, as discussed in Expert Meetings, the relevant World Bank clauses are the following:

- Article III, Sec. 5(b): Use of Loans Guaranteed, Participated in or Made by the World Bank “*The Bank shall make arrangements to ensure that the proceeds of any loan are used only for the purposes for which the loan was granted, with due attention to considerations of economy and efficiency and **without regard to political or other non-economic influences or considerations.***”
- Article IV, Sec. 10: Political Activity Prohibited: “*The Bank and its officers **shall not interfere in the political affairs** of any member; nor shall they be influenced in their decisions by the political character of the member or members*



*concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be weighed impartially.”*

World Bank intervention on Borrowers may be framed by Part 2, on that basis, as inappropriate interference with governments politics: *“Some of the proposals of the new ESF could be viewed by many borrowers as interference in domestic affairs of sovereign states, and lead to a perception that the Bank goes beyond its Articles of Agreement.”* (Submission, Russian Executive Director, Phase 2). For example, human rights are often perceived, construed or framed as a political topic, and the World Bank has historically used its apolitical mandate to exclude human rights from the discussion. During the 2015 live chat, the World Bank institutional response on human rights is the following: *“The Bank’s Articles of Agreement state that the Bank and its officers are prohibited from interfering in the political affairs of any member and from being influenced in their decisions by the political character of the members concerned. They also say that only economic considerations shall be relevant to decisions made by the Bank. The Bank’s member states have not agreed to incorporating human rights law into the safeguard policies. States have given other organizations the specific mandate to incorporate human rights, while assigning to the World Bank the role of addressing poverty reduction. Having said that, the World Bank believes that it stands second to none in helping achieve key aspirations related to human rights, such as access to health, education, employment, and sustenance.”* (Charles Di Leva, World Bank Chief Counsel on Environmental and International Law, February 2015, live chat). Other emerging issues are framed as political, triggering pushback against interference of the World Bank. For example, on labor: *“Participants recognize that the Bank is promoting labor issues under the ESF. However, this should not be used as a tool to intervene in the political sphere. The Bank can refer to general principles, but not specific labor treaties to strike an appropriate balance.”* (Consultation Meeting Summary, Government, China, Phase 3, October 2015). Another example relates to discrimination, especially as there are national laws in direct contradiction with certain non-discrimination principles, for example on homosexuality, given that homosexuality is still illegal in more than 60 countries, with a clear North/South divide, including 2 countries where the death penalty is imposed on consensual same sex acts. For example, during the consultation, the Government in India mentioned the tension between nondiscrimination and *“political rights”*: *“It needs to be ensured that the*

*provisions/language focused on nondiscrimination do not touch on political rights as is the case in the prevailing national laws of India.*<sup>10</sup> (Consultation Meeting Summary, Government, India, Phase 3, November 2015).

These clauses are the object of many discussions, interpretations and nuances. The work of Shihata, who served as the General Counsel of the World Bank from 1983 to 1998, was used as an argument by CSOs who resorted to Shihata's interpretation of the clause regarding consultation of affected people in World Bank projects: *“Such participation and consultation, to be useful at all, require a reasonable measure of free expression and assembly. The Bank would, in my view, be acting within proper limits if it asked that this freedom be insured when needed for the above purposes...”* (Shihata 1995, quote used during Expert Group Discussion on Human Rights, April 15, 2013).

Some World Bank staff argue that *“apolitical”* is not realistic. As put by one interviewee, *“The political clause is related to a reputational risk. For example, in Lebanon, there are 17 religions, which has an influence on domestic and political life”* (Interview, IFC and World Bank staff). In interviewees, a lot of the World Bank staff acknowledge the actual impossibility not to interfere with party politics, given World Bank projects are designed by governments, sometimes during political campaign periods. In this context, some World Bank staff may also perceive CSOs pressure as part of a political game: *“When we conceived [this operation] in a pre-electoral context, CSOs have dramatized issues to put the political regime in a difficult position”* (Interview, World Bank staff). Additionally, the World Bank's influence on government policies through the use of leverage or capacity building makes it difficult not to interfere with any political aspects of the country.

***Responsibility standards: neo-colonialism and universal values.*** This political debate is tied with a historical debate on neo-colonialism, and the fact that World Bank conditionalities may constitute an interference with countries sovereignty, linking the ESF conditionalities with the much criticized conditionalities from the structural adjustment programs: *“The ESF may take the country back to the Structural Adjustment Project*

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<sup>10</sup> While this statement may be broader than sexual orientation discrimination, it may also have referred to such matters: at the time, homosexuality was illegal in India, and a Supreme Court decision further invalidated part of Section 377 of the Indian Penal Code, hence making homosexuality legal in India, on 6 September 2018.

era.” (Consultation Meeting Summary, Governments, Phase 3, December 2015). This argument is rather used by Part 2.

Some comments are conveyed in MS meetings to criticize the use of conditionalities: *“The Bank’s policies and conditionalities are infringing on the sovereignty of the country. It continues to dictate state policy for promoting privatization. The Bank has increased electricity tariffs and decreased the electrification in rural areas.”* (Consultation Meeting Summary, MS, Nepal, Phase 2, November 2014). Traditionally, as mentioned above, CSOs have been mostly fiercely against the World Bank’s structural adjustment conditions promoting neoliberal reforms. However, more generally, on the contrary, in developing the framework, CSOs take a pragmatic approach: *“The US has the largest voting share. As long as a country advocate for access to information, respecting rights before power structure and [has a do no harm approach], we are in favor [of this country ruling on development projects]”* (Interview, CSOs). Both MS and CSOs would rather nuance their criticism of conditionalities when it comes to Safeguards: *“In many cases the country systems approach is a positive one. NGOs have been critical of conditionalities for years. But in cases of countries with no judicial system or human rights protections, the Bank should avoid using country systems. The Bank is increasingly supporting government agencies without any Safeguards. The Bank has to make a choice: apply the Safeguards rigorously or avoid country systems.”* (Consultation Meeting Summary, MS, Nepal, Phase 2, November 2014). They specifically request that the World Bank intervene for government to take their responsibilities: *“Indonesia has approximately 85 million children. The participant asked if the Bank can help abolish child labor through its environmental and social policies.”* (Consultation Meeting Summary, CSOs, Phase 2, Indonesia, December 2014). They may, more specifically, ask for additional funding and discussions with Borrowers: *“Participants observed that some governments have impoverished Indigenous Peoples in their territories. The Bank should make funds available to help Indigenous Peoples communities in those countries. When government officials come to consult, people are not able to speak freely because they do not feel comfortable airing their grievances against the government.”*; *“Often the borrower does not include concerns from Indigenous Peoples on the ground. It is important to have someone from outside to listen to both sides.”*; *“They called on the Bank to engage more closely with the Government of the Republic of Congo”* (Consultation Meeting Summary, Indigenous Peoples,

Phase 1, October 2013-March 2014). Beyond funding and advice, they also promote the use of conditionality: *“Il est de notoriété que l’esclavage existe encore au Niger. Nous tenons à ce que la Banque s’attaque à ce problème et nous espérons qu’elle prévoira des conditionnalités à cet égard lorsque l’État lui soumettra des demandes de financement.”*<sup>11</sup> (Consultation Meeting Summary, MS, Niger, Phase 2, December 2015). The idea is that the World Bank project requirements can be used as an enforcement mechanism to actually enforce national laws or go beyond national requirements: *“Where governance or the rule of law is weak, participants asked that the Bank not completely devolve responsibility to governments, but rather also take responsibility for its role in contributing to potential detrimental effects on human rights through its lending.”* (Consultation Meeting Summary, MS, London, Phase 1, March 2013).

CSOs even go further and also seek to understand their role in such intervention, in particular to ensure conditionalities implementation: *“Clarification was sought on how CSOs would monitor project conditionalities.”* (Consultation Meeting Summary, CSOs, Georgia, Phase 2, September 2014). Indeed, CSOs see themselves as an important mediator between the World Bank, Borrowers and civil society: *“Il est nécessaire de laisser les OSC jouer le rôle de parties prenantes en matière d’audit entre l’État, l’emprunteur et l’exécutant. Il ne s’agit pas de jouer le rôle de médiateur, mais un rôle d’alerte. Entre le bailleur de fonds et l’Emprunteur, il ne faut pas oublier qu’il y a la population.”*<sup>12</sup> (Consultation Meeting Summary, CSOs, Sénégal, Phase 2, November 2014).

Similarly, private sector representatives emphasize the fact that governments should comply with requirements to avoid governmental breach in compliance becoming a liability for private companies: *“On human rights and other social standards, the private sector can be expected to respect these standards, but companies should not be seen as substitutes for strong enforcement by states/governments. The concern that companies have when they sign up to stronger standards is not that respecting human rights or stricter labor laws will entail greater costs but that they will be held liable when governments fail to*

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<sup>11</sup> Translation: *“It is well known that slavery still exists in Niger. We want the Bank to address this issue, and we hope that it will include conditions regarding this matter when the State submits financing requests.”*

<sup>12</sup> Translation: *“It is necessary to allow CSOs to play the role of stakeholders in the audit process among the State, the Borrower, and the executor. This is not about playing the role of a mediator, but rather an alert role. Between the donor and the Borrower, it should not be forgotten that there is the population.”*

*respect their own laws.*” (Consultation Meeting Summary, Private Sector, France, Phase 1, December 2012). This argument may also be promoted by Part 1 Governments, as was the case in a Government meeting in Belgium: *“participants inquired about how the Bank will help people who fight for governance and who are oppressed by some Borrowers.”* (Consultation Meeting Summary, Governments, Belgium, Phase 3, January 2016).

Part 2, on the contrary, may perceive World Bank requirements both as an interference with their national sovereignty and as a liability risk: *“There is a concern that the way it is written in the document, the grievance mechanisms could open a door for civil society to accuse the government through the World Bank. This is worrisome as private interests should not take precedence over public interests. The World Bank should promote these mechanisms but not have a direct engagement with civil society.”* (Consultation Meeting Summary, Governments, Nicaragua, Phase 2, January 2015). They may underline their role. For example, the federal ministry of Environment of Nigeria stated in submitted comments: *“it was observed that [the vision for Sustainable Development in the ESF draft] does not recognize the role of the host government in terms of ensuring that the Environmental Social Framework meets regulatory requirements of the host nation”* (Submission, Government, Nigeria, Phase 2).

In pushing back on World Bank requirements, Borrowing States may suggest that there is a need to establish appeal mechanism to modify World Bank’s practices (as opposed to perceiving the World Bank as appeal mechanism to modify governments practices): *“An appeal mechanism should be in place where the Borrower and other relevant stakeholders are able to appeal/influence the Bank’s risk classification.”* (Consultation Meeting Summary, Governments, Philippines, Phase 2, October 2015). Once again, the focus on Borrowing States ownership, and the need to avoid interference, is in line with the responsibility as capacity building model, while the need to promote universal values beyond national frameworks is more aligned with the responsibility as compliance model. Beyond its political and historical dimensions, this debate also includes discussions on legal norms primacy.

***Responsibility standards: normative primacy.*** While this thesis is not a legal thesis and adopts the social science lens, it is interesting to analyze debates and different

arguments put forward when discussing OSER and one recurrent question is about which legal norms actually have the primacy over the other to define responsibilities.

On the one hand, CSOs defend the idea that international standards must have a major role in the regulation of States and other stakeholders, and that the World Bank should set the standards in alignment with international norms and standards (a non-exhaustive list of standards CSOs refer to include norms and standards of the ILO, World Commission on Dams, Millennium Development Goals, SDGs, UN Declaration on the Rights of Indigenous Peoples, Child Rights and Business Principles, FAO Guidelines, Business and Biodiversity Offsets Program, REDD +, Paris Declaration, UN Framework Convention on Climate Change, Convention for the Safeguarding of the intangible cultural heritage). CSOs may criticize States' violations of such norms (especially when States are signatories of these conventions): *“Les engagements internationaux ne sont pas respectés dans les normes (c’est-à-dire, en termes d’enfants, la Convention internationale sur les droits des enfants, la discrimination contre les femmes, elles sont toutes ratifiées, elles remplacent la réglementation nationale).”*<sup>13</sup> (Consultation Meeting Summary, CSOs, Senegal, Phase 2, November 2014). CSOs would therefore typically promote the World Bank role in influencing the better implementation of these norms.

In general, CSOs state that the World Bank has an important role in setting the norm: *“Stakeholders pointed out that the World Bank has great responsibility as global norm-setter. The Safeguards review should not be about minimum standards, but about moving the agenda forward”* (Consultation Meeting Summary, CSOs, Canada, Phase 2, January 2015). CSOs particularly underline the World Bank normative role on States regulation (e.g., as mentioned in a meeting with MS in Romania during March 2013, the first law on environmental protection that was created in Romania drew on World Bank guidance), commercial banks, and other development partners. Development partners themselves follow the E&S Safeguards reform with great attention, especially when their own framework already draws heavily from the World Bank's framework: *“Japan International Cooperation Agency (JICA) has very strong interest in the World Bank safeguard policies review, as it refers to World Bank safeguard policies in JICA’s guidelines on environ-*

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<sup>13</sup> Translation: *“International commitments are not respected within the standards (that is, for children, the International Convention on the Rights of the Child, discrimination against women, they are all ratified, they replace national regulations).”*

*mental and social consideration. The Bank is requested to continue to closely coordinate with JICA.”* (Consultation Meeting Summary, Development Partners, Japan, Phase 3, February 2016). Most generally the imposition of international standards is accompanied by an argument on the need to use leverage, in line with the responsibility as compliance model. For example, the private sector’s meeting summary includes the view that *“the Voluntary Principles on Security and Human Rights and the United Nations’ Guiding Principles on Business and Human Rights should guide the ESF on the treatment of human rights. The World Bank should use its leverage to promote adherence to these principles.”* (Consultation Meeting Summary, Private Sector, Canada, Phase 2, January 2015).

Although Borrowing States are not as likely as CSOs to use the terminology *“upward harmonization,”* to emphasize donors being influenced by the best standards or to promote the need for the World to strengthen law enforcement in their countries, Borrowing States do recognize the potential fruitfulness of the World Bank normative spill over on other donors and also refer to international standards.

The first advantage for Borrowing States is to avoid multiple standards in silos. As such, Borrowing States argue that there is a need to harmonize among MDBs: *“A dialogue should be set up to consider the standardization and integration of safeguard policies in all multilateral and bilateral organizations, to work towards a global standard.”* (Consultation Meeting Summary, Government, Peru, Phase 1, February 2013). However, Borrowers would also encourage the World Bank to look into other MDBs standards but would rather emphasize *“effectiveness and implementation”* rather than *“best practice”*: *“It was noted that the Bank should also look into the policies of other development partners for reference and comparison, especially in terms of the effectiveness and implementation of such policies.”* (Consultation Meeting Summary, Government, Vietnam, Phase 1, March 2013).

In some instances, Borrowing States also recognize the World Bank’s role when it comes to refining national legislation on the basis of international standards: *“Several projects have been implemented over the years in which the Bank assisted Georgia in improving legislation concerning plant protection, elaboration of effective methods of pest management etc. Unfortunately, the good examples were not followed in practice for a variety of*

reasons. *The Bank could help to promote good international practice in pest management in Georgia through its Pest Management policy, in particular through requirements regarding integrated protection of plants*” (Consultation Meeting Summary, Governments, Georgia, Phase 1, March 2013). Some comments do underline the need for Borrowing States to work on national laws and the importance for Borrowing States to be supported in bridging standards gaps on certain topics: *“The Bank should analyse the policies that exist in every country and support them to fulfill their own policies instead of imposing its own set of policies. (...) Often times, there is a gap between national laws and the Bank safeguard policies; the Bank should help the government to bridge those gaps.”* (Consultation Meeting Summary, Government, Guatemala, Phase 1, April 2013). This may include a role for the World Bank in policy design as well as policy enforcement: *“The existing differences, including social issues, compensation policies, or policies for severely affected households have led to many complaints and delays in implementation of projects (land clearance) because of the varying treatment of those issues. Innovative approaches to implementation of the Bank’s safeguard policies are needed, as the Bank’s policies are more advanced than the Vietnamese legal regulations. (...) The donor community, including the Bank, should take this opportunity to help strengthen the country’s environmental management regulations, enforcement, and implementation capacity.”* (Consultation Meeting Summary, Government, Vietnam, Phase 1, March 2013). As such, in some instances, Borrowing States argue that the national laws should be changed according to the ESF and not the reverse: *“Efforts should be made in Paraguay to harmonize domestic laws in order to ensure that the proposed Framework can be implemented. Many administrative regulations prevent, for instance, transferring funds to beneficiaries for implementing a project or providing benefits to citizens who do not have identity cards.”* (Consultation Meeting Summary, Government, Paraguay, Phase 2, November 2014).

However, Borrowers may rather pushback against World Bank standards arguing that they unrealistically go beyond national laws, especially on certain topics encroacher, compensation for resettlement, monitoring requirements, sexual orientation and gender or indigenous peoples. Challenges put forward by Borrowers as resulting from two sets of standards are the following:

- Unnecessarily creating two distinct review processes: *“Since the Bank and China have their own sets of social and environmental policies and procedures, each project*



*has to go through two review processes in parallel, resulting in long preparation time and low efficiency.”* (Consultation Meeting).

- Interfering with States legal system: States often note that international standards should not contravene national laws, and sometimes even explicitly argue that national laws should be privileged: *“The World Bank should support the government improve its Safeguards capacity and its quality of governance, but it should not get involved in official government business or in its policymaking process. The bank needs to “stay out of the government’s kitchen.”* (Consultation Meeting Summary, Governments, Kenya, Phase 2, February 2015). With this argument, Borrowing countries would typically pushback against any influence of the World Bank on national law: *“We think that the ESS 1 [part of the ESF on environmental and social assessment] needs to be presented unambiguously, with clear guidance on specific implementation issues, to avoid attempts to redefine national laws and systems that have been built with the population overtime. This is a conflict that the World Bank Framework should definitely avoid.”* (Consultation Meeting Summary, Governments, Nigeria, Phase 3, December 2015).
- Inadequate standards for countries’ ‘realities’ on the ground: *“Les participants ont exprimé leurs inquiétudes sur la façon dont les réalités culturelles sont prises en compte. (Par exemple, un agriculteur qui a besoin que ses enfants l’aident à cultiver la terre)”*<sup>14</sup> (Consultation Meeting Summary, Government, Senegal, Phase 2, December 2014)
- Creating inequalities on the ground: *“In some cases, Bank projects require compensation standards that are different from other domestic-financed projects in the same area. This has resulted in conflicts.”* (Consultation Meeting Summary, Government, Egypt, Phase 1, March 2013). This comment is particularly made in the context of resettlement. Indeed, for example, when the World Bank finances part of a Government project, the World Bank requirements only apply to the World Bank related investment and not to the other part of the same project, not financed by the World Bank. As such, compensation may be different for different people in

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<sup>14</sup> Translation: *“The participants expressed their concerns about how cultural realities are taken into account. (For example, a farmer who needs his children to help him cultivate the land).”*

the same project, and Governments may raise concerns about the resulting inequalities: *“When addressing compensation: what would happen in a project with an area funded by the World Bank and another area next to it funded by the government with its own policies? It is clear that compensation amounts are usually higher. What should the government do in this case? Do we ignore national laws to implement to give precedence to the World Bank requirements? This raises the question of two standards and this is a challenging matter for the government.”* (Consultation Meeting Summary, Government, Cameroon, Phase 2, March 2015). Governments representatives may particularly point to the social tensions resulting from such situations: *“Dans le cas de certains projets impliquant une réinstallation, des niveaux élevés d’indemnisation sont versés aux populations affectées par les projets. Cela crée des inégalités et des tensions sociales avec les autres.”*<sup>15</sup> (Consultation Meeting Summary, Government, Senegal, Phase 2, December 2014). Despite these tensions, Government may argue that they don’t have the resources to harmonize compensation following the World Bank standards: *“Implementing Bank projects seems to be at an expense of a social cost to the government when it implements its own projects as the people begin to use the Bank’s projects as standard, which government cannot meet when using own resources”* (Consultation Meeting Summary, Government, Nigeria, Phase 3, December 2015).

- Supra-national judicial system: The World Bank accountability mechanism, the Inspection Panel, also constitutes a semi-judicial mechanism to judge Safeguards compliance (of the World Bank, not States, but the World Bank compliance with their Safeguards is intrinsically related to States compliance with the Safeguards, as World Bank compliance is essentially linked to adequate supervision of States compliance). This may trigger a worry from Borrowers that there would be a judgment mechanism independent of States’ legal system. For instance, during the discussion with the Expert focus group on Labor, participants underline that *“Clear rules for ensuring compliance with the safeguard independently of parallel national judicial proceedings need to be in place.”* (Consultation Meeting Summary, Expert Focus Group on Labor, Indonesia, Phase 1, March 2013). As such Borrowers may

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<sup>15</sup> Translation: *“In the case of certain projects involving resettlement, high levels of compensation are paid to the populations affected by the projects. This creates inequalities and social tensions with others.”*

also insist on the fact that the accountability mechanism should be restricted to the accountability of the World Bank: *“However, it needs to be ensured that bank (audit) restricts itself to non-compliance of its policies and procedures by the Banks staff – that it is not an enquiry or audit in the conduct of Country’s System, officials or any matters of the implementing agency. If someone has any complaint against the Country’s System/officials/implementing agency, he needs to follow the domestic laws/ guidelines of grievances redressal mechanism.”* (Submission, Government, India, Phase 2, January 2015). In effect, this is quite hard to promote, as the World Bank accountability is tied to its supervision responsibility, and therefore intrinsically linked to Borrowers responsibility and non-compliance, as breach of the World Bank responsibility often corresponds to shortcomings in supervision of the Borrowers resulting in non-compliance from the Borrowers (i.e., if there is a breach in World Bank supervision responsibilities but no breach of compliance from the Borrowers side, it is unlikely the resulting issue would be the object of an investigation).

Borrowers especially most often argue that States should be treated depending on the quality of their national system: *“If the country has adequate regulations it should not be treated the same as countries with weak regulations.”* (Consultation Meeting Summary, Governments, Sri Lanka, Phase 1, April 2013). This is especially the case for States that have strong judicial systems (which also often correspond to powerful States within the Board, and also States that may have access to more alternative sources of funding). In line with this argument, some Borrowers, particularly strong Borrowers like China, also argue that improvements in national law lead to the fact that Safeguards are unnecessary duplication: *“Some practices in China (e.g., time period of public disclosure) already meet the Bank criteria, thus duplication in these areas could be avoided to improve efficiency.”* (Consultation Meeting Summary, Governments, China, Phase 1, March 2013). As exemplified in this quote, a series of arguments emerge, pointing not to the difference between ESF and national law anymore but to the alignment between ESF and national law. One has to note both arguments have the same argumentative consequence but are distinct arguments. When pointing to the difference, as noted above, States may argue that the framework is an interference with States legislative primacy and should instead align with national law. When pointing to similarities, States may argue that the framework is actu-

ally unnecessary because it is a repetition of the same: “*With the exception of adaptation to Climate Change, the Caribbean states tend to have effective environmental systems in place, which are successful in minimizing risks from projects. The Framework does not add much value.*” (Consultation Meeting Summary, Governments, Barbados, Phase 2, January 2015). As such, many governments, particularly during Phase 3 adopt this alignment argument, likely seeing in this argument a strategic opportunity to apply their own national framework instead of another framework. This is the case not only for China but also for countries which have less resources and less capacity like Kenya, Bangladesh or even Ethiopia. For example, in the meeting with the Bangladesh Government representatives, it is stated that “*Environmental and social protection is central to government policy. The prime minister is the champion of this challenge. None of the issues in the ESF is new to Bangladesh. Almost all issues are addressed in national laws and policies. Also, the country already has many international agreements and instruments with which to comply.*” (Consultation Meeting Summary, Government, Bangladesh, Phase 3, November 2015). However, in the same meeting, participants may also pushback against the Safeguards on the basis of normative discrepancies. For example, participants to the Government representatives meeting in Bangladesh cited above as they mention national framework alignment with the ESF also argue the following: “*The Bank should take into account that the ESF is not aligned with the country framework and differences between them exist. (...) It takes as long as three to six months to satisfy the Bank’s requirements, including public consultations and preparation of an environmental and social assessment. This is very time and resource consuming. Under the National Environmental Act, it is necessary to obtain the site clearance as a first step, and then the environmental clearance is based on the terms of reference for the environmental impact assessment (EIA). The sequence under the national system is different from the Bank’s system. The Bank should find ways to synchronize with the national system.*” (Consultation Meeting Summary, Government, Bangladesh, Phase 3, November 2015). Similarly, while the meeting dedicated to China government representatives during Phase 2 points to the idea that there are “*no inconsistencies,*” one participant also mentions that “*the risk categorization system of the World Bank is different from that of China. This creates conflict, increases burden and delays implementation. There tends to be a recurrent situation where a project that is classified as ‘B’ according to China’s EIA could be classified as ‘A’ according to the*

*Bank's EIA.*" (Consultation Meeting Summary, Government, China, Phase 2, December 2014). It is difficult to actually understand the exact function of arguments in such negotiations. To what extent arguments are instrumental in shaping stakeholders' positions (or truth-seeking arguments) and to what extent stakeholders' positions are retroactively justified by any arguments in line with their end goal (or strategic rhetoric arguments), even if rhetoric arguments may contradict themselves – the question remains open. Of course, there may be a little bit of both, but contradictions from the same stakeholders also emphasize that some arguments may be rhetoric, given contradiction of arguments with the same consequence may rather point to the need to justify one's position by all argumentative means necessary.

Beyond arguing for alignment or for attention to the fact that the ESF has more stringent requirements than national law, some rare comments from Borrowers indicate that Government representatives also argue that national laws are more stringent than the Safeguards, while CSOs would typically argue the contrary, as explained above: *"India has a very strong and robust Environmental Protection Act, which covers appraisal process, impact assessment, ground reconnaissance, risk assessment, public consultation and disclosure, compliance, monitoring and evaluation and cumulative impact study. It also maintains a national regulation framework covering water, air, biodiversity, emission and effluent norms. We also have the unique Green Tribunal. Our system is better than ESF (...) The ESF is ambiguous about assessment of cumulative impact. India is much ahead of it. The country has a much stronger framework for cumulative impact on soil, air and water. (...) The country has comprehensive labor laws and stipulations regarding working conditions, the right to form associations, the right to strike, guidelines for compensation, etc. which are adequate."* (Consultation Meeting Summary, Government, India, Phase 3, November 2015).

Arguments pushing back against requirements on the basis of national standards are also used by the private sector. For example, the private sector pushes back against disclosure requirements using the national frameworks in Paraguay and Brazil: *"ESS9 (paragraph 17) requires that the financial intermediaries publish in their website the links to the environmental and social assessment for all high-risk sub-projects receiving financing. However, the Paraguayan law does not allow financial organizations to publish their*

*clients' information. Publishing those links would allow identifying the environmental assessments' authors who are bank clients and this is not allowed by the law.*" (Consultation Meeting Summary, Private Sector, Paraguay, Phase 2, November 2014).

These debates about the relevant applicable standards show that the debate around the basis on which responsibility should be defined is heated, with the traditional distinction between CSOs and Part 2 arguments, the first promoting "*international*" best practice, in line with responsibility as compliance, and the second promoting "*sovereign*" national frameworks, in line with responsibility as capacity building to promote ownership.

I have therefore seen that the three key questions of responsibility (for what, to whom, on the basis of which standards) are the object of vehement debates, and how they may relate to distinct patterns of response in line with responsibility as compliance or responsibility as capacity building. In the next paragraphs, I tackle the way the connection to the impact is debated and how they may relate to the model of responsibility as compliance or responsibility as capacity building.

### ***Forward-looking non-causal responsibility***

As summarized in the Table 14 below, responsibility as compliance model does not focus on the World Bank responsibility to compensate for impacts it has not caused, as all the discourse associated with non-compliance and the use of leverage actually focus on the idea that the World Bank is causally responsible of non-compliance for not being able to use its leverage in a manner that restores compliance. However, certain CSOs and Governments do point at the World Bank's capacity as requiring the World Bank to act. It should be noted that this responsibility as building lens is theoretically open to any type of impact, including impacts which are not caused by either the Borrower or the World Bank, even though, as already explained, support is only promoted or tolerated by Borrowers when it not perceived as interference. As such, requests for the World Bank to take on support responsibilities can be interpreted as a promotion of non-causal responsibility.

Table 14: Responsibility models against OSER definitional questions

|  | <b>Responsibility to ensure compliance</b>  | <b>Responsibility to build capacity</b>  |
|--|---|--|
| <b>Forward-looking non-causal responsibility</b> | The World Bank is not responsible if everything is in compliance and there is not causal link to the adverse impact | The World Bank may be found responsible to the extent that it has more capacity than Borrowers to support remedial actions |

***Interlinkage between forward-looking responsibility to prevent adverse impact and backward-looking responsibility***

Given that the debate concerns a policy debate, it is hard to distinguish in the comments those who refer to backward-looking responsibility/forward-looking responsibility to repair or forward-looking responsibility to prevent, given that the policy is essentially a forward-looking tool meant to both cover prevention measures (forward-looking responsibility to prevent) and future management of future adverse impacts (backward-looking responsibility for past impact leading to forward-looking responsibility to repair past impact).

Distinct answers can still be distinguished depending on the responsibility model at hand. While responsibility as compliance is more focused on forward-looking prevention of measures through legal provisions and remedies, responsibility as capacity building is more focused on forward-looking prevention through clarity on financial requirements as well as financial support. Similarly, backward-looking responsibility for past impact/forward-looking responsibility to repair for such impact will be more focused on leverage and penalties under the compliance lens, and more focused on financial support under the capacity lens.

Table 15: Responsibility models against OSER definitional questions

|   | <b>Responsibility to ensure compliance</b>  | <b>Responsibility to build capacity</b>  |
|---|---|--|
| <b>Forward-looking responsibility to prevent adverse impacts or stimulate beneficial impacts</b>                              | Better prevention/stimulation measures need to be sustained by strong legal provisions establishing legal remedies.                         | Better prevention/stimulation measures need to be sustained by clarity on financial needs and strong financial support to Borrowers. |
| <b>Backward-looking causal responsibility and forward-looking responsibility to repair past adverse impacts it has caused</b> | The World Bank needs to apply penalties and use penalties for the Borrower to restore compliance, or can be held responsible for the impact | The World Bank needs to support any compensation provided by the Borrower  |

Beyond this distinction, it is interesting to take a deep dive into the situations where this debate on forward and backward-looking responsibility is particularly brought to the spotlight of OSER negotiations.

Whether it comes to prevention or repair of caused impact, as mentioned, the World Bank’s responsibility for adverse impacts is somewhat one step away from the impact, due to this distinction between supervision, which is the World Bank’s role, and implementation, which is the Client’s role. However, most stakeholders in the consultation are in agreement that the World Bank, even in its supervising role, could have a causal (even though indirect) responsibility for impacts (which are sometimes also indirect and cumulative). Nonetheless, the World Bank intervenes punctually through projects, even if their project is longer than many projects in the private sector, and even though the relationship between the World Bank and its client is long lasting. As such, the depth of its responsibility beyond the very strict temporal and spatial limits of the punctual projects can be debated. All comments point to the project and punctual focus of the World Bank, with debates as to whether the World Bank needs to have a focus restricted to the projects and their direct impacts, or whether the World Bank needs to take responsibility beyond the project. This may concern country contextual issues, impacts before the project, indirect and cumulative impacts in the long term and beyond the spatial boundaries of the project, associated facilities, supply chain impacts.



**Questions are raised around the extent of responsibility of the World Bank regarding contextual issues** which are not, or not only, project related. Stakeholders may emphasize the need for the World Bank to take into account contextual circumstances: *“Most World Bank projects are integrated with larger development projects, but the World Bank focus in only on its own specific project and does not look at the wider environment even in large ecosystems like wetlands and the Metro Colombo project.”* (Consultation Meeting Summary, MS, Sri Lanka, Phase 1, April 2013). In some cases, Borrowers do urge the World Bank to clarify their taking into account of historical issues on certain topics: *“In Kenya the issues of historical land injustices play a very important role in the land narrative and continues to be the source of conflict. The ESF should provide guidance on how to deal with such historical injustices.”* (Consultation Meeting Summary, Government, Kenya, Phase 3, February 2016). However, Borrowers and Part 2 Executive Directors may rather emphasize the limits of the Word Bank role considering systemic and contextual issues: *“Taking all these risks into account will not only require a significantly new level of capacity and expertise but may also unreasonably lift expectations that any socio-political problems could be solved through Bank projects.”* (Statement from Adrei Lushin, Executive Director representing Russia). In most Borrowers meeting, participants argue that requirements should only apply to the project: *“The Bank should limit the scope of policy application to the project; it should not be unlimited. Otherwise, it would become too much of a burden for the Borrower with regard to social responsibility and cost increases. The Bank system should move closer to the domestic system.”* (Consultation Meeting Summary, Governments, China, Phase 3, October 2015). While the CSO CIEL argues that Government should assess historical pollution in their submission from March 2016, Borrowers argue they do not themselves have the capacity to undertake assessment and measures in relation to certain contextual impacts that may go beyond the State: *“Identification of responsible parties for historical pollution cannot be undertaken by the project developer.”* (Consultation Meeting Summary, Governments, India, Phase 3, November 2015). Borrowers still do point to the responsibility of non-Borrowing countries and the need of non-Borrowing finance in this context: *“As countries will have to pay the cost for implementing Safeguards with considerations of climate change, they should have access to climate financing to help them do so.”* (Consultation Meeting Summary, Expert Focus Group on Climate, Mexico, Phase 1, April 2013). Borrowers can

state they are victims of historical non-Borrowers impacts, and use the term compensation to point to the non-Borrowing countries responsibility: *“En tant que pays victime des changements climatiques, le Niger devrait recevoir des compensations.”*<sup>16</sup> (Consultation Meeting Summary, Government, Niger, Phase 3, December 2015). In this case the World Bank becomes a vehicle for addressing historical responsibilities that were not caused by the World Bank. This clearly contrasts with the idea that the World Bank should only focus on projects and not take into account contextual issues, the difference being that in the case of defending a project-only focus, Borrower may rather point out the need to avoid additional requirements by the World Bank to them on past impacts, which can be perceived as costly, while the beyond-project finance they are asking for is actually a request for additional resource for them. As such, it may not necessarily be about whether the World Bank needs to have a role or not beyond projects, but rather that Borrowers are asking for less cost, and more money.

The question of contextual issues becomes even thornier when there are no identifiable responsible parties. For example, some natural disasters and weather events do not have identifiable responsible parties, while others can be seen as related to climate change and therefore less undefined from a responsibility perspective (although not necessarily easier to solve). The following comments show how all these questions, as well as questions in relation to the impact of nomadic population, can be channeled in one paragraph, without necessarily being distinguished from one another (although one has to remember that the referenced documents are consultation summaries, and not the full comment, even though it is not excluded that the initial comment was channeling all these distinct questions all at once as well): *“What are the terms and conditions of the loans? In case of natural disaster, who bears the consequence? (...) Unpredictability of weather situation (climate change), no rain or too much rain – no weather information and records; devastation by nomads and their animals, pests and diseases – who bears the cost?”* (Consultation Meeting Summary, Government, Nigeria, Phase 3, December 2015).

***In the case of impacts before the project, which are not necessarily historical or contextual issues***, the question is also raised. For example, Borrowers are pushing back against responsibility for prior impacts when they were not caused by the project:

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<sup>16</sup> Translation: *“As a country affected by climate change, Niger should receive compensation.”*

*“Paragraph 11 of NAS3 should specify that there are two types of historical pollution: one where the project already existed and is responsible for the pollution, and another where the project is not responsible for the pollution. In the latter case, the project should not be held responsible for solving the pollution problem. The project should establish a baseline to determine the responsibilities and identify who will take charge of cleaning up the pollution.”* (Consultation Meeting Summary, Governments, Nicaragua, Phase 2, February 2015). In projects where prior impacts would be caused in anticipation of the project, Borrowers may agree Bank requirements would apply as stipulated in the policy: *“There was a case where land was acquired for a school project. The land was acquired one year before the Bank lending came in. The national approval procedures were cleared, land leveling was done and the land was vacated and ready for use. The Bank due diligence of land acquisition was required and conducted.”* (Consultation Meeting Summary, Governments, China, Phase 3, October 2015). CSOs, on the other hand, are more prone to insist on the need to take into account contextual risks, but do not necessarily specify how: *“For LMAP [the World Bank Land Management and Administration Project] to be effective, its design should have reflected a sound risk assessment that took into account contextual political-economy factors”* (Inclusive Development International, submission, Phase 2). It is unclear as to what are the types of assessment required to take into account past efforts that did not take into account the World Bank Safeguards, which can be often more stringent than national frameworks: *“More clarity should be provided about how to address environmental and social liabilities relating to prior infrastructure projects that were carried out following old regulations without regards for environmental and social issues.”* (Consultation Meeting Summary, Governments, Paraguay, Phase 3, November 2014). The question as to where to put the limit seems to be raised in several instances: *“Clarify how Safeguards should deal with historical injustices. Projects may take place in settings where current land relations are themselves a reflection of previous injustices – for example, where the Government has previously acquired land without adequate compensation. The Bank needs to think through how it should evaluate and address such so-called “legacy issues.” There is a practical concern here, however, as to how far back in time safeguard principles should apply.”* (Consultation Meeting Summary, Governments, South Africa, Phase 1, February 2013). However, these questions do not actually respond to who should bear what responsibility in the project, and how to dis-

tribute responsibility within the value chain composed of the World Bank – Government – other stakeholders in charge of implementation.

***Questions are raised regarding indirect and cumulative impacts.*** Indirect impacts and cumulative impacts have varying definitions and related debates. However, one definition ultimately approved by the ESF is that an indirect impact is an impact which is caused by the project and is later in time or farther removed in distance than a direct impact, but is still reasonably foreseeable. For example, noise impact from rising traffic can be considered as an indirect impact. A cumulative impact is the incremental impact of the project when added to impacts from other relevant past, present and reasonably foreseeable developments as well as unplanned but predictable activities enabled by the project that may occur later or at a different location. According to an IFC Good Practice Handbook on cumulative impacts, examples of cumulative impacts include: effects on ambient conditions such as the incremental contribution of pollutant emissions in an airshed, increases in pollutant concentrations in a water body or in the soil or sediments, or their bioaccumulation, reduction of water flow in a watershed due to multiple withdrawals, interference with migratory routes or wildlife movement, wildlife population reduction caused by increased hunting, road kills, and forestry operations, depletion of a forest as a result of multiple logging concessions, secondary or induced social impacts, such as in-migration, or more traffic congestion and accidents along community roadways owing to increases in transport activity in a project's area of influence. Cumulative impacts can also result from one project or several projects. Certain stakeholders point to the fact that certain projects are actually done in the context of a series of projects, which points to the responsibility of the World Bank and Borrower beyond the project focus: *“What if - large projects are wolves in sheep skin: first, a low impact project, only to be followed some years later by larger, much higher impact phases (examples are many in hydropower development; similarly in road and railroad infrastructure)”* (Consultation Meeting Summary, MS, Germany, Phase 2, November 2014). While CSOs insist on the need to take into account cumulative impacts, Borrowers emphasize that indirect and cumulative impacts, whether caused by one project or several projects, complexify the question of responsibility: *“Under ESS1, assessment of cumulative and indirect impact is required. This will result in cost and time overrun. This responsibility will fall only for that project which is funded by the Bank in a cluster of projects. The purpose of this*

*requirement will be difficult to achieve when many entities are involved and impact management is not the responsibility of a single entity.*” (Consultation Meeting Summary, Governments, India, Phase 3, November 2015). Questions related to indirect impacts are raised in the context of specific Safeguards, like resettlement or biodiversity conservation: *“ESS5, para 4 (c) needs to be clarified. I was once engaged in a navigation dredging project. While there was no direct impact on people whose livelihoods rely on fishery from the river, there was confusion about how to assess the indirect impact. It needs to be clarified whether and how the indirect impact is considered under the proposed ESS5.”* (Consultation Meeting Summary, Governments, Vietnam, Phase 2, October 2014), *“In ESS6, Para 10, “indirect impacts” proposes inclusion of differing values attached to biodiversity by affected communities and other interested parties, which is difficult to assess for the Borrower. Provision should be modified accordingly.”* (Consultation Meeting Summary, Governments, India, Phase 3, November 2015). Non-governmental stakeholders are not seeing indirect impacts under the same lens, they rather tend to promote coverage of indirect impacts: *“Participants emphasized the need for greater attention to assessment of downstream impacts – including from deforestation and land use conversion – and the need to establish a hierarchy of direct and indirect impacts. Participants further pointed out that it should be recognized that in some projects indirect impacts can be greater than direct impacts.”* (Consultation Meeting Summary, MS, Brazil, Phase 3, March 2016). The question is also raised by other DFIs in the context of climate change impacts: *“JICA considers that the practicability of calculating GHG emissions from a project would depend on the definition or scope of “indirect emissions” from a project. It should be clarified what the scope of “indirect emissions” would be, for example, in the case of a road project. The proposed ESS3 does not provide sufficient clarity.”* (Consultation Meeting Summary, Development Partners, Japan, Phase 3, February 2016).

**Long term impacts**, which are often indirect or cumulative (although indirect and cumulative impacts are not always long term), are also a key question when it comes to the limits of the World Bank OSER. This particularly focuses on the World Bank intervention in time. CSOs particularly emphasize the need to take into account long term impacts: *“Bank responsibility after project disbursement should be enhanced, because some impacts only occur after implementation”* (Consultation Meeting Summary, CSOs, Egypt, Phase 1, March 2013). The question is raised on specific topics like climate change: *“Partici-*

*pants expressed that pollution was a long-term, cumulative consequence of some projects, and were interested in knowing what was being done to prevent long-term consequences.*” (Consultation Meeting Summary, CSOs, South Africa, Phase 1, November 2014). Similarly, the need to clarify responsibility as to the propagation of malaria is voiced by CSOs: *“Who is held responsible if a dam is built and that leads to the propagation of malaria? Does the Bank write epidemiological baseline studies to ensure that there are no diseases that could be propagated by the construction of one of its projects?”* (Consultation Meeting Summary, CSOS, Kenya, Phase 2, February 2015). Stakeholders in MS meetings particularly point to the need to set up financial resources for such impacts: *“Negative consequences can arise during and even well after the lifespan of a project, for example a mega-infrastructure project can leave behind abandoned equipment and lead to long-term risks of water pollution and food shortages. To address these unforeseen risks, a trust fund should be set apart that can serve as a safety net for the borrower beyond the life of a project so that these unforeseen negative impacts can be addressed 5 to 10 years after the project closes. This trust fund would earn interest in the meantime. Eventually a borrower could create an overall trust fund to cover all its projects; if they go smoothly, this would constitute savings for the government, but if not, the funds are there to cover these negative impacts. Such a trust fund should be part of the Bank’s lending package.”* (Consultation Meeting Summary, MS, Canada, Phase 1, January 2013). Such long-term impacts are particularly complicated given the World Bank’s interventions are typically projects-based: *“Social environmental change has its own clock and own time, which sometimes doesn’t match the project cycle. Because of that, we’ve run into all kinds of accountability problems where the issues come up, but then the financing has finished, and these people are left or the environment’s left in a lurch. I did not hear and I’m concerned about the question of moving away from front-loading when it may involve not financing these areas. Many of the projects have been under-financed because they’ve been under-assessed. Because they’ve been under-assessed, we discover these problems later. So frontloading financing should not be ignored”* (Ted Downing Statement, CSO representative, Transcript, CSO Forum, April 2014). CSOs also point to the relative short-term presence of elected governments: *“What if - large Projects, especially resettlement, entail long term impacts and mitigation needs? We know that government commitments may be good only as long as an elected government lasts. When Government changes, so do*

commitments (example: Itaparica/Brazil). Will there be up-front requirements for separate management and untouchable ('escrow') multiyear budgets to finance and secure full implementation of mitigation measures over period of 10-20 years?" (Consultation Meeting Summary, MS, Germany, Phase 2, November 2014). CSOs are asking for a specific timeline that would take into account long term impacts: *"I think you need to define the timeline – the time for which a project can continue to be evaluated, even after it is closed, because the impacts that happen, happen longer than the timeframe for the project. It will be important also to see the remedial actions that you put in place to address the issues that may have been persistent through the implementation of the project. That's my proposal."* (Henry Bazria Statement, Transcript, CSO representative, CSOs Forum, October 2015). CSOs particularly emphasize the need to maintain World Bank monitoring beyond project construction and operation, when the World Bank has no resources to monitor the project: *"CSO Participants sought clarification on the Bank's definition of 'project life cycle.' According to the ESF the Bank is obliged to monitor ESSs throughout the project cycle. Project life cycle is defined and includes "preconstruction, construction, operation, decommissioning, closure and reinstatement/restoration of works. What happens when a project closes and there are no resources for the Bank to monitor the decommissioning, closure and reinstatement/restoration which may happen after the project closes?"* (Consultation Meeting Summary, CSO, Jordan and Iraq, Phase 3, December 2015). Part 1 countries support the need to take into account long term impacts: *"The Framework should also consider the responsibility, accountability and emergency response to incidents that may occur during project operation phase after project completion."* (Consultation Meeting Summary, Government, Australia and PNG, Phase 2, February 2015). Borrowers, on the contrary, may pushback against an understanding of the project that would include operations of an infrastructure beyond project closure, for cost reasons: *"It is recommended to the implications of 'project cycle/the life of the project' and clarify whether it covers project operation in addition to project preparation and implementation. Main reason: some project (such as hydropower projects) have much longer operation period. If this period is included in 'project cycle/the life of the project', the cost would increase considerably and 'operationability' would decrease"* (Submission, Government, China, Phase 2). Governments still often acknowledge the need to take into account long term impacts but underline the need for the World Bank to keep doing the

monitoring exercise: *“The Bank should also monitor project results after project completion.”* (Consultation Meeting Summary, Government, Vietnam, Phase 2, October 2014). They are particularly insisting on support from the World Bank (rather than insisting on setting up escrow accounts like CSOs do, which would require more financial support from Borrowers): *“Why does the Bank shy away from environmental auditing beyond the life of the project and why is this not built into the operations of the project (...) Need for more assessment and feedback and more monitoring even beyond the life of the project which will need technical and capacity support to the borrower at the national and state levels. Need for support by the Bank.”* (Consultation Meeting Summary, Government, China, Phase 3, December 2015). Development partners also mention the need for the World Bank to pay attention to long term impacts: *“The World Bank should improve its ex-post evaluation that currently is only done right after the project closing. The World Bank should adopt a longer term approach. This would guarantee that the agencies tasked with operating the project ensure there is appropriate funding for the projects’ operations and resources required for monitoring the project’s performance, including impact and beneficiary assessments, etc.”* (Consultation Meeting Summary, Development Partners, Paraguay, Phase 2, November 2014). The response of the World Bank during the April 2014 CSOs Forum is one where long-term impacts are acknowledged: *“You have to monitor projects over a period of time actively to see if people are being adversely affected in a way you didn’t even think of, perhaps, on the ground. The time frame is obviously important. The rollouts of outcomes’ impacts to people on the ground often takes place over a longer period of time than many of the environmental issues, for example. So the key message is, we have to stay engaged, we have to monitor, we have to talk to the affected communities, and we have to deal with issues as they emerge.”* (Mark King, World Bank Chief Officer for E&S standards, Transcript, CSOs Forum, April 2014). During Phase 3, the new system is explained in more detail, including the need to close obligations before closure (which does not necessarily mean addressing all project indirect long term impacts): *“The gentleman from Uganda also I think asked the question about monitoring after the project has closed. There’s a little known provision that we currently have in the resettlement policy that says a project won’t close if you haven’t completed the resettlement obligations. What we did, as an improvement in the new standards, is that we discussed among ourselves, why should we only limit that to a resettlement plan? What if we had a*



*community, health and safety plan? Why should that end if it's not completed by closure? So in the new system, what we have is, if you haven't completed the obligations, you have to keep doing it, or we don't close that aspect until it's done. So, we've applied that across all the various obligations that we have under the new standards. That's similar to what we did on the grievance mechanism because currently under the Safeguards, the only Safeguards that require a grievance mechanism are under resettlement or indigenous people, but now as of our umbrella approaches, all projects have to have an appropriate form of grievance mechanism available. So, these I think are little noted enhancements that we have under the current system.”* (Charles Di Leva, World Bank Chief Counsel on Environmental and International Law, Transcript, CSOs Forum, October 2015).

***Impacts of associated facilities.*** According to the ESF, “*associated facilities*” means facilities or activities that are not funded as part of the project and, according to the World Bank, are: (a) directly and significantly related to the project; and (b) carried out, or planned to be carried out, contemporaneously with the project; and (c) necessary for the project to be viable and would not have been constructed, expanded or conducted if the project did not exist. For example, a transmission line can be seen as an associated facility for a hydropower plant. One has to note that the ESF definition of associated facilities is more restrictive than the one in OP 4.12, which states that an associated facility is “*necessary to achieve its objectives as set forth in the project documents*” instead of “*necessary for the project to be viable and would not have been constructed, expanded or conducted if the project did not exist.*” This is criticized by CSOs. CSOs also argue that sound coverage of associated facilities should not contain caveats: “*Associated Facilities Loophole. Paragraph 11 takes a positive step forward by “require[ing] all Associated Facilities to meet the requirements of the ESSs,” but then puts in the caveat “to the extent the Borrower has control and influence over them.”* (Erika Lennon, Senior Attorney at CIEL, submission, Phase 3, March 2015). Borrowers, on the contrary, are particularly underlining the need to have clear project boundaries: “*With regard to project boundaries, it is very important that the proposed Environmental and Social Framework clearly define the boundary criteria including for associated facilities. This is the only way any potential impacts could be adequately managed without them becoming burdensome on the borrowers.*” (Consultation Meeting Summary, Government, South Africa, Phase 3, November 2015).

**Concerning sub-project (in the context of World Bank support to governments or World bank support to FIs)**, the question is also raised. For example, in a meeting dedicated to Government representative in Egypt, participants ask: *“In paragraph 7, clarify what is meant by restructuring of subprojects, and who is responsible for that.”* (Consultation Meeting Summary, Governments, Egypt, Phase 2, October 2014). Similarly, MS participants state: *“Regarding subprojects: there is a “massive loophole” in the draft Framework regarding which environmental and social management standards will apply to subprojects. It is not clear if national law or the draft ESF would be the standard for subprojects that are not classified as high-risk. The language in the draft ESF needs to change to reflect that the draft ESF will be used as the standard for all projects and subprojects.”* (Consultation Meeting Summary, MS, US, Phase 3, February 2016). This is particularly the case for FIs: *“Clarity needed on what type of operations the FI standard (ESS9) would apply to, and to what extent co-financing using World Bank funds would dictate standards at the subproject level.”* (Presentation reporting on third phases consultation comments, April 2016). This question is particularly raised in the case of non-targeted use of proceeds: *“A participant sought clarification on how ESS9 would apply, where a Bank loan to a financial intermediary will not be traced to a specific project. The participant further sought clarification on fungible vs. non-fungible financing and where that applies”* (Consultation Meeting Summary, Government, China, Phase 2, December 2014).

**Supply chains impacts** may also require World Bank intervention, but the limit is once again unclear: *“The Bank’s proposed role in the Environmental and Social Framework with regard to supply chains needs better clarity. How far down the chain such influence can be exerted and where the responsibility for compliance stops is not very clear since the definition is itself somewhat vague.”* (Consultation Meeting Summary, Governments, South Africa, Phase 3, November 2015). While Governments are emphasizing the need for a clear *“stopping point”* for *“compliance responsibility,”* stakeholders may raise the need to include workers in the supply chain, even if they are only indirectly hired by the Borrower: *“In the scope of application of ESS2, ‘project workers’ is too narrowly defined as ‘people engaged or hired directly by the Borrower.’ In reality 95% of workers are indirectly employed or engaged by the Borrower”* (Consultation Meeting Summary, MS, Bangladesh, Phase 2, November 2014). This is echoed by Part 1 non-Borrowing

countries: “Some participants asked whether the Bank would stop a project if there is child labor associated with a project being implemented by the Bank but not within the project itself. Moreover, they wanted to know what the Bank will do if it is financing a water supply project, and it is providing water to a cotton farm with child labor.” (Consultation Meeting Summary, Governments, Belgium, Phase 3, January 2016).

***Some impacts can happen beyond Borrowing countries***, particularly when it comes to indirect impacts. Governments, CSOs and DFIs raise that issue. DFIs particularly point to the notion of cumulative impacts spill-over on another country: “World Bank’s safeguard policies are for specific projects and for the Borrower country. But one needs to take into account that there are impacts on the non-borrower countries, other borders and cumulative aspects.” (Consultation Meeting Summary, Development Partners, Sri Lanka, Phase 1, April 2013). The concern is for example raised by Georgia in relation to its coastline: “The impact of current projects on the environment of other countries should be considered as well. For example, a power station is being built in Turkey, which will have an impact on Georgia’s coastline” (Consultation Meeting Summary, MS, Georgia, Phase 1, March 2013). Similar worry is also voiced by Egypt concerning potential impacts on the Nile: “What if a project satisfies all ESSs, but it will bear damaging effects to another country, such as the Ethiopian dam which is expected to badly affect Egypt’s share in the River Nile water—will the Bank consider financing such projects?” (Consultation Meeting Summary, Governments, Egypt, Phase 3, January 2016). Unsurprisingly, this question is consistently raised by the stakeholders who would suffer from the impacts, not stakeholders who would create the impacts and need to assess them. As such, representative of Russia are asking for more stringent assessment in impacts that would affect them (especially as the assessment’s burden would likely not be on them): “On p. 7 there is a phrase ‘where the project is likely to have sectoral or regional impacts’. It is important to change it to something like ‘where International, sectoral or regional impact of the project is NOT EXCLUDED... appropriate environmental assessment is required’ Selenga Dam (Mongolia) is an example where no information was provided to Russia and the Russian position was not considered at all” (Consultation Meeting Summary, CSOs, Russia, Phase 1, March 2013).

Through these above examples of complexities associated with the causality of a project, whether in space or time, a few findings emerge. Borrowers keep pushing back against additional requirements (and therefore pushback against causal links between the project and certain cumulative impacts), but Borrowers do recognize the need to take care of certain indirect long-term impacts and are asking for support from the World Bank on the same impacts. Impacts that can easily be causally linked to the project (in the context of associated facilities or impacts in anticipation of the project for example) are more easily recognized as requiring to be taken into account, whether through forward-looking prevention/stimulation measures and assessment or forward-looking remedial measures for impacts one is causally responsible for. The debate, from this perspective, is really about whether a causal link can be established. However, as Borrowers are asking for help and support on certain key risks, their argument often comes down to saying that they themselves cannot be held responsible for these impacts. While they do not necessarily claim that the World Bank is the one responsible for these impacts, they do ask for support from the World Bank, slightly de-linking the question of capacity from that of causality, with the idea that the ones that have the capacity in the context of non-identifiable causality are the one responsible for the impacts. This particularly concerns complex historical or cumulative impacts, or impacts that can have major effects but no identifiable responsible party like weather events that cannot be causally directed to any stakeholders. It is noteworthy that climate change is situated on a fine line with the difficulty but not impossibility to identify clear responsible party, and that arguments related to climate change sometimes actually seem to implicitly point to the responsibility of other countries, some of which sit at the World Bank's Board, at a time where debates around loss and damages fund for climate change were only emerging, recently culminating in the creation of a Loss and Damages Fund at COP27.

***Note on the application of responsibility questions related to causal complexities in the context of the Government-private organizations contractual relationships***

As mentioned, this PhD largely focuses on the World Bank's OSER, but it still notes that the shape of the negotiations regarding the World Bank OSER vis-à-vis Borrowers can be compared to negotiations regarding Borrower's OSER vis-à-vis the private sector. Indeed,

questions surrounding the extent of the World Bank OSER also apply to governments and private sector, to determine the limit of their own responsibility in projects. From the World Bank perspective, the World Bank supervises the Borrower, and the Borrower implements the project, but from the Borrower’s perspective, it often is that the Borrower supervises the Contractor, and the Contractor implements the project. The Figure below describes the typical roles associated with different actors, as explained above, but adds the layer of the Contractor, to show the dynamic of this relative symmetry between World Bank/Borrower and Borrower/Contractor in terms of role, capacity and leverage.

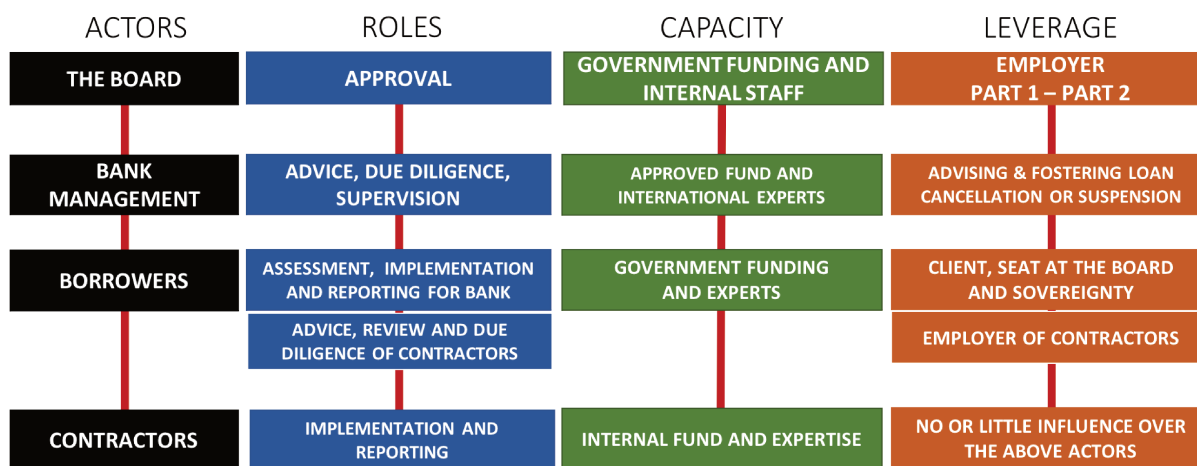


Figure 19: The World Bank responsibilities vis-à-vis Borrowers and Contractors’ roles

In both cases, the question is that of causality, capacity and leverage. This is particularly telling, because the arguments which are raised in this context by Borrowers are not the same, and sometimes rather the exact opposite, than arguments raised by Borrowers in the context of their own responsibility vis-à-vis the World Bank.

For supply chains, Borrowers are not sure of the limits of their own responsibility vis-à-vis the Contractor: *“The requirement to ensure that the primary supply chain production is not taking place in regions where there is a risk of significant conversion of natural habitats will create a difficulty for the Borrower, as this will require a responsibility to closely follow-up on the sub-contractors.”* (Consultation Meeting Summary, Private Sector, Brazil, Phase 2, December 2014).

Similarly, in the case of associated facilities, Borrowers express particular worry about the limit of their control: *“According to ESS1, ESSs will apply to all Associated Facilities. This will be an expansion of the project boundary beyond the technical and financial control*

*of borrowers.*” (Consultation Meeting Summary, Government, India, Phase 3, November 2015). They raise for example this issue in the context of a transmission line done by another agency: *“The government has faced difficulties in dealing with associated facilities – especially with electricity transmission lines connected to renewable energy projects, and specifically when the transmission lines are done by another agency. Does the ESF include any changes with respect to how Borrowers address this issue?”* (Consultation Meeting Summary, Government, Turkey, Phase 3, January 2016). Other stakeholders and CSOs may rather push for the broadening of the definition of associated facilities: *“There was a request for more clarity in defining the associated facilities. Clear responses are needed; close attention will be paid to associated facilities. The current definition of associated facilities is too narrow.”* (Consultation Meeting Summary, MS, US, Phase 3, February 2016).

Similarly, Borrowers also pushback against the requirement for them to monitor third parties. This is particularly interesting as the responsibility sharing between the World Bank and the Borrowers is very similar to responsibility sharing between Borrowers and third parties, given Borrowers are obliged to monitor third parties but very reluctant to be responsible for ensuring outcomes: *“The draft extends the Framework to a large number of parties involved with the Bank in the name of third parties—agents, intermediaries, small suppliers. The borrower would be obliged not only to evaluate the management practices of such third parties but also to ensure compliance. This extension of application of standards beyond primary contracts and the primary suppliers would expand the burden of monitoring and reporting on the borrowers.”* (Statement made by Mr. Subhash Chandra Garg, Executive Director for Bangladesh, Bhutan, India and Sri Lanka, 24 June and 1 July, 2015). This question is particularly raised in the context of ESS2: *“The provisions in ESS2, para 31, stipulates: ‘the Borrower to ascertain that third parties who engage contracted workers are reputable and legitimate entities; and the Borrower to ascertain that third parties follow ESS’. The requirements are vague and the responsibility of the Borrower is too extensive and should be deleted.”* (Consultation Meeting Summary, Government, India, Phase 3, November 2015). Borrowers argue this is the contractors’ responsibility, not their own: *“The Government officials requested further clarifications on the definition of third parties. There should be mutual agreement on their use by Bank and country. Saudi Arabia has a large number of contract workers and labor laws, but it is*

*the contractor that needs to respect these with regard to its workers. There are limitations to the extent that the Government can check everything contractors do.”* (Consultation Meeting Summary, Government, KSA, Phase 3, November 2015). They particularly argue that they do not have leverage on certain contractors, in particular foreign contractors, and therefore cannot be held responsible for these contractors’ actions: *“It is good to refer to national legislation. But participants wished to know if the policy applied to foreign workers, and if so, how. For example, Chinese contractors often pay workers back in China; in this case, it is difficult to know what influence the Borrower could have.”* (Consultation Meeting Summary, Governments, Central Asia including Kazakhstan, Kyrgyz Republic, Tajikistan, Uzbekistan, Phase 2, November 2014).

pushback from the private sector on their responsibility in projects have similar patterns than pushback from Borrowers. For example, the private sector would use the argument of cost, feasibility to reduce liability and requirements in their operations: *“In Brazil, there is a discussion about the possibility of holding the banks liable for the social and environmental damage caused by their clients. The World Bank should not include in the ESF issues that could aggravate this problem and make the loans not viable, such as the requirement to disclose the environmental assessment of the sub-projects supported by the financial intermediary. The disclosure should be voluntary and should be subject to an understanding that the financial intermediary has no responsibility related to such disclosure.”* (Consultation Meeting Summary, Private Sector, Brazil, Phase 2, December 2014).

Similarly, Borrowers would pushback against enforcing requirements through the use of leverage on them, but Borrowers would ask the World Bank to enforce requirements by using leverage on the private sector: *“The World Bank should be willing to assume some responsibility for monitoring the extent to which contractors are fulfilling labor obligations, as country systems with low capacity may not be able to guarantee compliance.”* (Consultation Meeting, Expert Focus Group on Labor, Indonesia, Phase 1, March 2013). In this case, their opinion can align with CSOs, which in some rare cases emphasize the limits of Governments capacity, pointing to the World Bank responsibility to intervene with private stakeholders: *“Pesticide use is controlled by the private sector. Government*

*has very little control. How are you going to fix this?"* (Consultation Meeting Summary, CSOs, Bangladesh, Phase 2, January 2015).

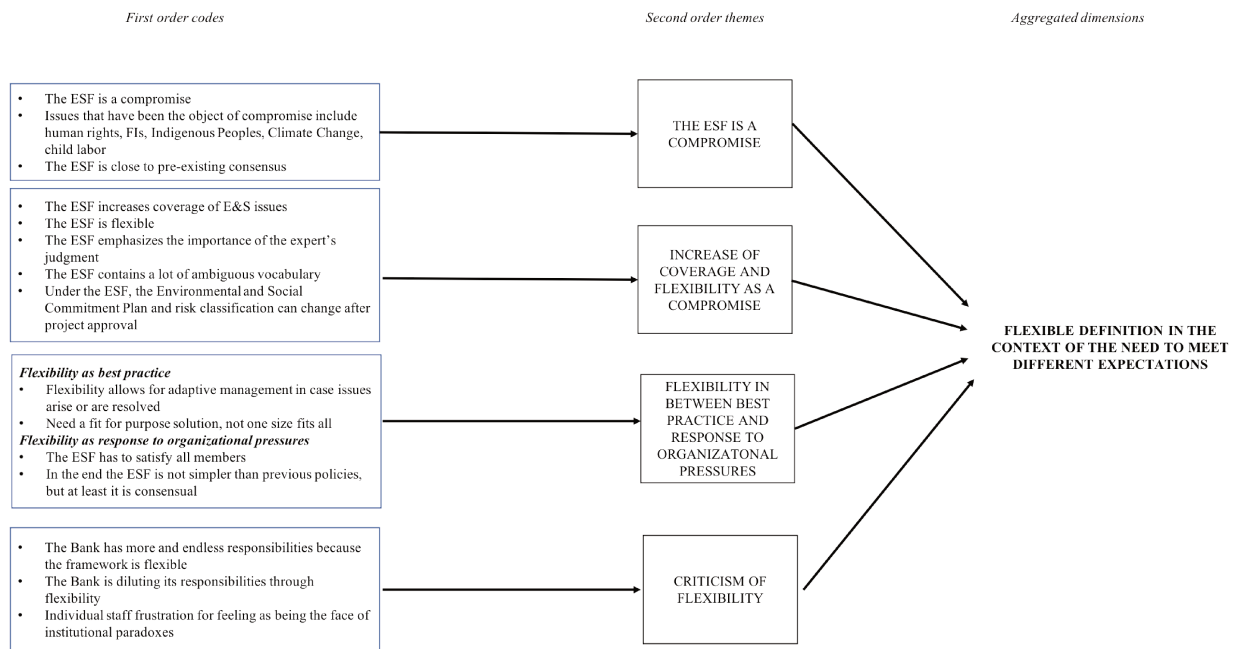
These arguments show that in both cases, whether World Bank/Borrower or Borrower/Contractor, key questions are concerned with causality, capacity and leverage, but the vocabulary and intent are not exactly the same depending on the stakeholders at hand, and Borrowers may have different arguments when it comes to the World Bank's responsibility vis-à-vis them and the World Bank's responsibility vis-à-vis Contractors.

In this chapter, I have shown how the distinct responses to OSER definitional questions can be described as coming down to two distinct OSER models, which are not exclusive but convey different understandings of responsibility and arguments around responsibility, and that the divide in responses to the responsibility definitional framework corresponds largely to patterns of comments reflecting these two models of responsibility, as well as arguments and counter arguments related to these models. As we have also seen that the organizational nature of the World Bank reemerges as a key structuring context that shapes the ESF consultation, we are ready to make links between how the organizational pressures of the World Bank may influence the result of the consultation in terms of OSER definition through a substantive analysis of the final proposed framework.



### 3.3 Substantive results: flexibility as a delay of the organizational decision about the World Bank’s OSER

After having analyzed the ESF negotiation process, shaped by various and conflicting organizational pressures, and reflecting different understandings and responses to the question of OSER definition, with the emergence of two non-mutually exclusive models of OSER, this section is a deep dive into the substantial result of the ESF and what it means for OSER definition. It is based on the NVivo coding of speeches on what the final ESF consists in.



Source: NVivo coding

Figure 20: High level coding structure, substantive dimensions

This section will focus on the ESF as a compromise constrained by different viewpoints and pre-existing frameworks (3.3.1.). It will examine the increase in both coverage (3.3.2.) and flexibility (3.3.3.) in the context of the ESF, discussing how flexibility can be explained as a best practice or response to or compromise for organizational pressures (3.3.4.). It will address the resulting criticism of the ESF, in particular the perception that this constitutes an individualization of OSER decision in the absence of the possibility to take institutional decisions on OSER (3.3.4.).

### 3.3.1 The final framework: a compromise

On August 4, 2016, the ESF is adopted by the World Bank. Perceived as a “*big compromise*” (Interview, World Bank Staff), it reconciles contradictory aspirations. As mentioned by Stefan Koerbele, the ESF team was dedicated to “*putting together a very comprehensive framework that takes account of many of the substantial and, as you know, often conflicting concerns from the multiple groups of stakeholders. These concerns that have been raised range from the 188 governments which own the World Bank, which in themselves are a very diverse group, as you can imagine, to the people who are directly affected by projects on the ground, to Indigenous Peoples, and to concerned citizens and advocates (...)* So it’s clear that this stage is not very easy because we’re trying to reconcile positions that are often very different, and it goes without saying that, particularly on the very emotive issues, people have strongly held view that are not easy to reconcile, but our job at the end is to produce a proposal to our Board that is acceptable in a multilateral institution.” (Stefan Koeberle, World Bank Director for Strategy, Risk and Results, OPCS, Transcript, CSOs forum, Phase 1, April 2014). The final ESF is voted unanimously within the Board, partly made up of part 2 States, very reluctant to put in place any new E&S obligations in the World Bank framework. From this perspective, this process is considered a success (Interview, Bank Staff). The ESF’s success is largely due to its capacity to rationalize the safeguards and legitimize the World Bank E&S leadership.

- ***Rationalization.*** As mentioned by the US Government, the ESF constitutes “*a new, more logical structure that is likely to be easier for staff and borrowers to understand and implement.*” (Summary Consultation, Government, US, Phase 3, March 2015). Some World Bank staff also argue that rationalization is achieved

from the viewpoint of cost efficiency. Indeed, while many World Bank staff, and Chair representatives actually wonder about the World Bank capacity to actually allocate sufficient resources to meet their E&S objectives, the flexibility introduced in risk classification is supposed to be aligned with proportionality and enables the World Bank to focus resource allocation on high-risk projects: *“The new ESF allows for more proportionality. Spending less resources on low risks projects and not enough on high risks projects. If the Bank has to spend more on high risks, it will have to spend less on low risks, otherwise it’s going to go bankrupt. This flexibility is going to free up time.”* (Interview, World Bank staff working on the ESF consultation). In the end, from that perspective, the ESF is not a painful requirement, but can be accommodated even from a banking lens: *“I don’t think it will put us out of business. It’s a development opportunity. It should not be seen as a cost to integrate environmental and social dimensions within projects”* (Interview, World Bank Staff).

- **Legitimation.** The framework covers topics that were not covered before in such an explicit manner, especially at the social level, thus promoting World Bank’s leadership in the E&S risks domain. Given the ESF was unanimously approved, it is the face of a consensus between World Bank’s Board members, and therefore also represents a success from this point of view, as consensus is a cornerstone of legitimacy.

Many of these objectives are achieved through compromise, trying to address a lot of distinct if not contradictory expectations. For example, it is interesting to analyze the way the World Bank presents the ESF during Phase 3, both demonstrating its enhanced understanding of each stakeholders’ key expectations and prefiguring the final framework. For example, one presentation during a CSOs forum at the annual meetings shows the following slide (Figure 21 below). This slide appears as a summary of stakeholders key expectations: while *“enhanced protection for poor and environment through modernized standards”* can be perceived as a consensual goal that would reunite all stakeholders, *“stronger partnership through increased use of borrowers framework”* can be seen as an argument meant to convince Borrowers, *“inclusive access to development benefits through non-discrimination principle”* can be seen as an argument meant to convince CSOs,

“stronger leadership by World Bank through modernized framework” can be seen as an argument meant to convince the internal World Bank leadership and Executive Directors.



Figure 21: World Bank presentation, ESF goals

Key evolutions of the drafts show that, while there was a certain inertia of issues due to the need to harmonize, the framework was pulled into several contradictory directions throughout the phases. During Phase 3, a list of 52 issues was made for consideration and focus on conflict points. Example of key issues include:

The question of **human rights** also led to a compromise. The CSOs, as well as other UN bodies, strongly pushed for human rights to be included in the framework. For example, during the Phase 2 CSOs Forum, the UN Special Rapporteur emphasized the World Bank’s role on human rights: *“we really think that a balance should be struck between the obligation of the Bank to promote and to also push the borrowers to comply with their international obligations to human rights and the flexibility of the Bank in terms of deferring, you know, a lot of things to the borrower countries.”* (Vicky Tauli-Corpuz, UN Special Rapporteur on the Rights of Indigenous Peoples). However, as discussed at the beginning of the consultations in Expert Group discussion, human rights were perceived and framed as a risky political issues for the World Bank: *“Since human rights obligations bring with them an inevitable political content, the Bank could be accused of acting*

*outside its mandate by unduly interfering in the affairs of member states.”* (Summary Consultation, Government, Expert Group, Phase 1, April 2013). Some Part 2 countries were indeed strongly against the use of human rights, as this was framed as a political topic, as opposed to economic matters: *“China supports a general statement on human rights in Vision statement in the ES Framework. The Bank should not be used as an instrument for human rights dialogue, otherwise it would bring Bank’s work to a political level. The Bank should stick to its non-political stand and not interfere with domestic affairs of borrowing countries. (...) China believes the Bank should stick to its development mandate and non-political nature. Issues such as human rights and labor issues are politically very sensitive. A proper approach is needed.”* (Summary Consultation, Government, China, Phase 3, October 2015). As such, the World Bank staff was very cautious about human rights terminology and changed the wording from *“being supporting of human rights,”* to *“sharing the aspirations of the Universal Declaration of Human Rights”* and helping clients fulfill those aspirations in the last draft, which can be interpreted as a watered-down version of human rights support. The World Bank did include topics related to human rights in a World Bank directive on discrimination, which was the object of many discussions: *“Virtually everyone recognized and welcomed the principle of nondiscrimination in the new Framework, but there was a lot of concern, especially among some governments, as to how this can work in practice. There was also concern over the language, how nondiscrimination is described in the Framework. Some people would just simply like to have reference to the word ‘nondiscrimination’ and the principle established, and they wouldn’t like examples given, such as sexual orientation or religion and that and so on. Others want more examples given.”* (Mark King, World Bank Chief Officer for E&S standards, Transcript, CSOs Forum Phase 2, March 2015). Language on discrimination was separate from the policy document but included as part of the ESF negotiation results in the Directive on Addressing Risks and Impacts on Disadvantaged or Vulnerable Individuals or Groups, which provides directions to strengthen the Bank’s due diligence, but does not establish the same level of requirements than the ESF itself.

Conflict points also included **FIs**, as summarized by Mark King in March 2015: *“on the issue of FIs. Diversity of opinion there. Some people said, we like the standard, it’s great, going in the right directions, given all the concerns there are of FIs. Others have said, don’t have a standard at all. So a bit of diversity there.”* (Mark King, World Bank Chief

Officer for E&S standards, Transcript, Phase 2, March 2015). In the end, the World Bank decided to have a dedicated standard for FIs, which objectives include setting out how the FI will assess and manage E&S risks and impacts associated with the subprojects it finances, to promote good E&S management practices in the subprojects it finances, to promote good environmental and sound human resources management within the FI. This standard is interesting because the extent of the World Bank monitoring or support to the FI subproject does not have the same extent as the World Bank monitoring/support to the FI itself. To some extent, the FI and FI subproject have a similar relationship to that of the World Bank with the FI itself. From the World Bank perspective, it is unrealistic to monitor all FI subprojects as it would monitor the FI or its own direct investment projects. However, not having any monitoring role on the FI is not good practice either. The World Bank therefore had to find a compromise, which consisted in requiring the FI to submit to the World Bank Annual Environmental and Social Reports which would include details of how the requirements of this ESS are being met, the nature of the FI subprojects financed through the project, and the overall portfolio risk, profiled by sector. From this perspective, the implicit idea is that of “reasonable” monitoring responsibility.

The question of **Indigenous People**. As explained by Alexandra Berezedi, World Bank Lead Social Development Specialist for the Africa Region: *“In the first draft of ESS 7 on Indigenous Peoples, there was a proposal where, if the Borrower was concerned that the process of identifying groups for purposes of applying this ESS would create a serious risk of exacerbating ethnic tension or civil strife, or where the identification of culturally-distinct groups as envisioned in this ESS is inconsistent with the provisions of the national constitution, the Borrower could request the Bank to agree on an alternative approach, in which risks and impacts of the project on Indigenous Peoples would have been addressed through the application of the ESSs other than ESS7. Indigenous groups, other CSOs and NGOs, and governments objected to this approach because they thought it could be used as an excuse to bypass the standard – and it was taken out of the draft ESS 7. A clear case where voices were heard and instrumental in helping us to re-shape the ESF.”* (Global Live Chat, March 2016). This clause was very controversial within the World Bank. Part 2 members, especially in African Countries, were very reluctant on the term indigenous peoples. This was explained both by the reluctance to provide compensation given to customary rights holders (as opposed to compensation exclusively

for those who own property titles) and the fact that indigenous people could be perceived as a threat to States' sovereignty, as they can be seen as or claiming to be a nation within the nation. The World Bank emphasized this challenge to respond to concerns: *"No, the new policy will make sure the rights of indigenous people are always protected. Some countries consider it difficult to use the term 'indigenous', for example because they find it might exacerbate ethnic tension (such as Tanzania) or where the country defines itself as 'indigenous' (such as Bolivia). We will need to find a pragmatic way to deal with such situations, and the 'alternative approach' was a possible and transparent suggestion that deals with such (exceptional) cases"* (Stefan Koeberle, World Bank Director for Strategy, Risk and Results, OPCS, February 2015, live chat). As such, Part 2 were happy with the alternative approach: *"some participants expressed satisfaction with the inclusion of the "alternative approach"* (see for example Summary Consultation, Government, Kenya, Phase 2, February 2015). However, CSOs, the academia or other IGOs like the Office of the UN High Commissioner for Human Rights were strongly against the alternative approach: *"Where a borrower chooses to adopt an alternative approach to engaging with indigenous peoples, they are in effect, given permission to "opt-out" of Free Prior and Informed Consent even in situations where indigenous people are present, and have the internationally recognized right to free, prior and informed consent."* (Center for Applied Legal Studies, March 2015). Ultimately, the World Bank did remove the alternative approach.

The final ESF also provides further precisions of the World Bank's commitment to **climate change**. The first draft indicated that *"the World Bank Group is globally committed to environmental sustainability, including stronger collective action to support climate change mitigation and adaptation, recognizing this as essential in a world of finite natural resources."* (ESF). In addition to this commitment in the Vision for Sustainable Development, the second draft adds that the World Bank *"recognizes that climate change is affecting the nature and location of projects, and that World Bank-financed projects should reduce their impact on the climate by choosing alternatives with lower carbon emissions. The World Bank works on climate change because it is a fundamental threat to development in our lifetime. The World Bank is committed to supporting its client countries to manage their economies, to decarbonize and invest in resilience, while ending poverty and boosting shared prosperity."* (ESF). The commitment is that of "support," rather

than that of ensure, but this still precises and widens the coverage of the World Bank's responsibilities to mitigate climate change. The final ESF specifies that the Borrowers are responsible for estimating GHG and reducing pollution. However, in the same movement, the final ESF deletes reference to specific requirements on estimates of indirect emissions associated with off-site production of energy, and significantly caveats the requirement to estimate direct emissions compared to previous drafts, in order to manage concerns related to the lack of Borrower's capacity to estimate and manage air pollution.

Another area of compromise concerns **child labor**. As we have seen, child labor was a contentious issue as many communities rely on child labor, while several stakeholders were opposed to child labor. The World Bank ESF provides that a while below 18 may be employed under a specific set of conditions, including that the work is not likely to be hazardous or interfere with the child's education or be harmful to the child's health or development. This leaves the room open for various interpretation, but also opens the door to "*safe*" child labor, in an attempt to address concerns from the two sides of the spectrum of opinions on child labor. Labor, in general, is an extension of the World Bank coverage, as the World Bank did not have standards on labor previously. In particular, ESS2 includes the World Bank's due diligence include labor, including direct workers but also contracted workers, community labor and primary supply workers, as well as the systematic requirement to have a worker's grievance mechanism.

While the framework was the object of many heated discussions and compromise, it can also be paradoxically viewed as marked by a certain inertia, given that the World Bank's ultimate framework remains particularly close to that of the IFC compared to previous Safeguards, not only because the coverage of the ESF is broader, but also because the philosophy of the ESF is similar to that of the IFC Performance Standards. It still has to be noted that harmonization was not complete between the World Bank and the IFC, as the World Bank did not adopt the IFC framework, which is due to several potential reasons: the specificity of the IFC as it lends to the private sector while the World Bank lends to the States, the relative competition between multi-lateral development banks. When the ESF is launched, harmonization exercises are ongoing but remain a challenge. During a conference on Safeguards and compliance with representatives from the ADB, AIIB, EBRD, IDB, IFC, MIGA, World Bank, Alister Clark, Managing Director of the



Environment and Sustainability Department at ERBD at the time, declared: *“I agree with the idea harmonization, but in that case, make sure we all harmonize around me (that’s the answer I got from the precedent president of EBRD when speaking about harmonization).”* (Conference, LJD Week, Safeguards and Compliance). This shows the competition dynamic MDBs are facing in setting the standard for OSER, and the remaining importance of institutional egos, linked to the need to promote leadership in a competitive environment, while coordinating to promote certain standards and avoid exacerbating clients’ frustrations about the diversity of standards.

However, the World Bank ESF is much closer to the IFC Performance Standards than the World Bank Safeguards and as put by Stephen Lintner during Phase 1, the World Bank does have several softer harmonization exercises: *“there is actually quite close coordination between the multilateral development banks as broadly defined, both the large ones as well as the smaller specialized ones. We get together regularly, and we peer review and transmit information to each other. So I think we have an effective way of doing that. We have regularly served as peer reviewers and advisors on other policies. So I think the concern you have is legitimate, but I do want to tell you we actually have a functioning structure through which we do that, and we have and will continue to brief our colleagues on what we are doing, as they do. And it is just not the large banks. We have the Black Sea Trade and Development Bank, the Nordic Investment Bank, and we have had Islamic Development Bank in these dialogues.”* (Transcript: Statement by Stephen Lintner, World Bank Senior Technical Adviser on E&S issues, CSOs Forum, Phase 1).

As mentioned above, it is clear that at the end of this major consultation, the World Bank framework remains particularly close to that of the IFC compared to previous Safeguards, in terms of coverage and philosophy. The fact that consultations led to a result that was so close to the IFC Performance Standards tends to show the limited leeway that participants of the consultation could have in the updated content, and associated response to OSER definition, considering one goal was to harmonize with pre-existing framework. However, the fact that the World Bank consultation lasted 4 years and took 8 years between the recommendation to update the Safeguards and the launch of the updated Safeguards, when the IFC reform lasted 2 years, can be interpreted both as signaling the magnitude of the consultations and the difficulty of building consensus within the World Bank.

Also, specific consensus building challenges at the World Bank seem to be substantiated by statements from my interviews: *“In the private sector, this issue is more technical. For example, human rights are not so controversial at IFC (Business and Human Rights, UN).”* (Interview, World Bank staff during the ESF period, ex-IFC staff). Although this statement may be nuanced, as several discussions with interviewees tend to show that human rights is not an easy topic at IFC either, it may also signal a certain difference in pressures in both meta-organizations, as the difference between IFC and the World Bank is that IFC Board members are not also IFC clients, thus minimizing the pressure of clients at the Board level, although IFC is also to some extent subordinated to the World Bank, given the IFC Managing Director reports to the World Bank President.

Despite the sensitivity of any compromise required to reach a consensus at the World Bank on the framework, and despite a relative inertia of the document, the ESF still extends coverage of World Bank’s responsibilities, but does it in a way that also allows for a great amount of flexibility.

### **3.3.2 Coverage expansion and flexibility**

The ESF result can be interpreted as having a restricted scope but remains an expansion of the World Bank’s topical coverage, which is summarized below.

Indeed, the ESF remains relatively restrictive in terms of coverage of World Bank financial instruments, as it applies to Investment Financing but does not apply to Development Policy Loans (DPLs) (which may for example support Client countries’ policy reforms) and Program for Results (which constitutes a series of programmatic thematic interventions – for example in health, education or growth, and disbursement is tied to program results), two other products of the World Bank. One justification is the indirect impacts of DPLs and PforRs. As they are policy focused, the impacts on the ground are less identifiable. Another justification is the need to pilot the ESF for traditional operations like investment project finance and then apply it to other operations: *“The [PforRs] currently is still a new instrument for the Bank; it’s under review. We have a two-year review where we look very closely at the application of the environmental and social standards for [PforRs], and that’s currently ongoing and will be presented to the Board in the summer. Environmental and social considerations are a very important part of that.”*

*Development policy financing: the environmental and social considerations there are governed by OP 8.60. Just to repeat that again, it's a mistake or misperception to say that there are no environmental and social considerations for policy-based lending. They are governed by OP 8.60. When the Safeguards Review is completed, we will be engaging in a Development Policy Retrospective, which looks at different aspects of the application of OP 8.60, including, of course, the application of environmental and social considerations to see whether the policy has been applied as intended. We will also then update the Staff Guidance on Development Policy Financing in light of the issues that have been covered by this Review of Safeguards that will apply to investment project financing.”* (Stefan Koeberle Statement, World Bank Director for Strategy, Risk and Results, OPCS, Transcript, CSOs Forum, April 2014). However, they are an important part of World Bank financing. After the ESF, DPLs and PforRs remain a grey area: *“NGOs are saying that those projects do not have any environmental and social requirements, Bank people are saying they are exactly like the ESF, and both sides are wrong. You have the ability to do a thorough system analysis. It does not preclude you to do strategic environmental assessments. Legally, it should be understood, under the current OPs, that if a country proposes a new program, a thorough assessment should be made. The question should be raised: under new social risk areas, what would be done under DPLs and PforRs?”* (Interview, World Bank staff working on the ESF consultation).

While the ESF does not expand the scope, it does expand the topical coverage as it gives much more prominence to social aspects, but also with the introduction of a labor standard and a community health and safety standard. It introduces a series of concepts and additional emphasis in relation to climate change, emergency preparedness and response, risks associated with the use of security personnel for the community, ecosystem services, Free Prior and Informed Consent in line with international standards in the context of indigenous peoples. It also introduces a specific standard for financial intermediaries and Stakeholder Engagement, which were both covered under OP 4.01 before.

Table 16: World Bank E&S policies considered in this study

| Safeguard Policies<br>2000s                                      | ESF 2016   | Examples of coverage expansion   |
|--|--|--|
| OP/BP 4.01 Environmental Assessment (1995 and revised in 2013)   | ESS1 Assessment and Management of Environmental and Social Risks and Impacts                       | Social aspects of ESS1 assessment including threats to human security, discrimination, involuntary loss of land and restrictions on land use, limited access to land and food, impacts on the health, safety and well-being of workers and project-affected communities, and risks to cultural heritage. |
| No previous standard on labor                                    | ESS2 Labor and Working Conditions  | Including labor aspects  |
| OP/BP 4.09 Pest Management (1998)                                | ESS3 Resource Efficiency and Pollution Prevention and Management                                   | More emphasis on pollution prevention and water consumption efficiency in the context of climate change  |
| OP/BP 4.37 Safety of Dams (2001)                                 | ESS4 Community Health and Safety (including Annex on Safety of Dams)                               | More holistic approach to community health and safety, inclusion of aspects related to emergency preparedness and response and security personnel  |
| OP/BP 4.12 Involuntary Resettlement (2001)                       | ESS5 Land Acquisition, Restrictions on Land Use and Involuntary Resettlement.                      | Coverage of restricted access to resources, clarification on application to state land, more due diligence in large scale transactions, explicit reference to gender, explicitation regarding no forced eviction.  |
| OP/BP 4.04 Natural Habitats (2001) and OP/BP 4.36 Forests (2002) | ESS6 Biodiversity Conservation and Sustainable Management of Living Natural Resources              | Inclusion of the notion of ecosystem services, as well as coverage of critical, natural and modified habitat   |
| OP/BP 4.10 Indigenous People (2005)                              | ESS7 Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities | Introduces Free Prior and Informed Consent, covers pastoralist and explicit provision for indigenous peoples in voluntary isolation.   |
| OP/BP 4.11 Physical Cultural Property (2006)                     | ESS8 Cultural Heritage   | Broader objectives, includes intangible cultural heritage, including stakeholder's access and requirement on commercialization   |
| No previous standard on FI                                       | ESS9 Financial Intermediaries (FI)   | Including annual report from FI as well as greater risk management for FI subproject.  |

|   |   |  |
|---|---|--|
| No previous standard on Stakeholder Engagement        | ESS10 Stakeholder Engagement  | Introducing systematic grievance mechanism, clarifying requirements on meaningful consultation, promotion of ongoing stakeholder engagement. |
| OP/BP 7.50 Projects on International Waterways (2001) | OP/BP 7.50 Projects on International Waterways (2001) is not replaced by the ESF. | N/A – remains the same.  |
| OP/BP 7.60 Projects in Disputed Areas (2001)          | OP/BP 7.60 Projects in Disputed Areas (2001) is not replaced by the ESF.          | N/A – remains the same.  |

However, while the World Bank extends the coverage of the Safeguards, it also provides more reassurance to the Borrower that it not only supports the use of the Borrowers framework, but is also committed to this use, in the Vision for Sustainable Development: *“The Bank is committed to the use and development of borrower’s frameworks to avoid unnecessary duplication, build national capacity and achieve development outcomes that are materially consistent with the objectives of the Environmental and Social Framework”* (ESF). The notion of material consistency introduces a certain flexibility vis-a-vis the notion of compliance. The second draft included the following language to clarify that the use of the Borrower’s framework will remain at the World Bank’s discretion: *“The Bank will consider the use of all, or part, of the Borrower’s existing environmental and social framework relevant to the development and implementation of the project (the Borrower’s ES Framework). The use of Borrower’s ES Framework will be determined at the discretion of the Bank. Where the Bank has agreed to consider such use, the Bank will review the Borrower’s ES Framework to assess whether such use would enable the project to achieve objectives materially consistent with the ESSs.”* (ESF). However, the final language insists more on shared decision and responsibility of this use: *“The use of all, or part, of the Borrower’s ES Framework will be agreed between the Bank and the Borrower (...) Footnote 22: The decision to use all, or parts, of the Borrower’s ES Framework will not relieve the Bank of any of its due diligence obligations.”* (ESF).

In general, the new framework is characterized by enhanced flexibility. Indeed, although the new framework is not just a series of principles as some had envisioned at the beginning of the E&S Safeguards reform (World Bank staff, Interviews) and even though some IFC staff working on the IFC Performance Standards viewed the ESF as more prescriptive than the IFC Performance Standards (Interview, ex-IFC staff working on the IFC Performance Standards), the new framework is still characterized by the great importance of the judgment of the expert, with a terminology rife with ambiguities (e.g., “*as appropriate,*” “*if feasible,*” “*if materially consistent*”), without a clear framework as to how to understand this vocabulary.

The three drafts (first, second and final) do provide a similar definition of key terminology. For example:

- *Technical feasibility is based on whether the proposed measures and actions can be implemented with commercially available skills, equipment, and materials, taking into consideration prevailing local factors such as climate, geography, demography, infrastructure, security, governance, capacity, and operational reliability (ESF).*
- *Financial feasibility is based on relevant financial considerations, including relative magnitude of the incremental cost of adopting such measures and actions compared to the project’s investment, operating, and maintenance costs, and on whether this incremental cost could make the project nonviable for the Borrower (ESF).*
- *Good International Industry Practice (GIIP) is defined as the exercise of professional skill, diligence, prudence, and foresight that would reasonably be expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances globally or regionally. The outcome of such exercise should be that the project employs the most appropriate technologies in the project-specific circumstances. (ESF).*

Although these definitions provide details on what will be taken into account as part of technical and financial feasibility, and although the second draft was perceived as clearer, these definitions still provide extensive leeway for interpretation on what is feasible or good practice, depending on the expert’s judgment.

While some World Bank staff argue that the vocabulary has been discussed internally and agreed upon (based on one Interview with a World Bank staff involved in the reform core team), others do not agree: *“the result of the ESF is disappointing despite the extension of the coverage, as it still contains many ambiguities”* (Interview).

The draft retains, if not exacerbates the flexibility available when rating the risks of a project, which is raised throughout the consultation, considering that risk rating determines much of the resource allocation and level of supervision.

Besides the vocabulary allowing for more leeway and judgment-based risk classification, the timing of assessment is more flexible as they can be done after approval: *“The ESF also introduces a great deal of flexibility. For example, when a project is presented to Board for approval, it’s acceptable in some instances to only have the draft version of some key documents. These instruments will be updated throughout the project cycle. It gives team a great deal of flexibility. Everything was final before. Now it’s acknowledged that this is a more dynamic situation. You upgrade or modify the risk classification depending on what happens during the project, or some risks are downgraded. That’s a great advantage.”* (Interview, World Bank staff).

This is what the World Bank has been aiming for since the beginning of the E&S Safeguards reform and presents as an *“outcome-focused”* approach (i.e., an approach that does not focus on the procedural steps as a box to be checked but would rather focus on outcomes). During Phase 1, Mark King was already selling the introduction of timing flexibility during an April 2013 CSOs Forum: *“Even though we may have an outcomes-based approach, that isn’t fluffy language for flexibility and opening doors; it means that we have to be very clear about what the outcomes are and what are the mandatory elements (...) An outcomes-based approach does not mean dilution; it does not mean dropping our standards because they’re happening post-Board. There are circumstances when it is appropriate to go forward with a framework. That happens in Multilateral Banks all over the place, and there’s nothing wrong with that. If you don’t understand exactly who will be resettled on a stretch of road at this point in time, but you have the framework which sets the procedural requirements and standards to which that resettlement will be carried out, most Boards will consider that acceptable.”* (Mark King, World Bank Chief Officer for E&S standards, Transcript, CSOs Forum, Phase 1, April 2014). This is accompa-

nied by a certain institutional will to demonstrate project efficiency and effectiveness in terms of delivery and results: *“As the President says, he likes to talk about the science of delivery. We need to be scientific in the way we talk about outcomes and how we monitor whether outcomes have been successful or not on projects.”* (Mark King, World Bank Chief Officer for E&S standards, Transcript, CSOs Forum, Phase 1, April 2014). This argument does respond to Borrower’s argument that Safeguards are obstacle to the actual operationalization of projects. However, one needs to be clear that being focused on outcomes is not necessarily a promotion of liability for results. During interviews, World Bank staff rather argue that liability for outcomes is practically unfeasible, as the World Bank responsibility is to follow the steps that should lead to certain results, but not to guarantee the results themselves.

### **3.3.3 Interpreting flexibility: in between best practice and response to organizational pressures**

Flexibility to some extent can be considered as a best practice on E&S management. During Phase 1, the World Bank is already pushing towards that direction, channeling comments around the need for flexibility (and perhaps giving a bit less importance to comments around the need for perspective requirements): *“There was a lot of concern that we have a more flexible approach to fulfilling the objectives of the policies with a real focus on outcomes so it is less mechanical, more problem-solving, more benefit delivering.”* (Transcript: Statement by Stephen Lintner, World Bank Senior Technical Adviser on E&S issues, CSOs Forum, Phase 1, April 2013).

Flexibility allows for fit for purpose case-by-case decision making. In a meeting where participants were asking for more specificity and clarity on the framework it is also stated that *“over-specificity and clarity may be counterproductive as this may be too restrictive and not enable various country or local context situations to be taken into consideration.”* (Summary Consultation, Development Partners and CSOs, India, Phase 2, December 2014). This was also emphasized by Mark King in a public update: *“While it is important to say that every project needs to be considered on a case-by-case basis, there are no golden rules about how much front-loading you need and how much rear-end loading or whatever, for the want of a better term, is required on a project. It’s very project-specific. (...)*



*We just have to be pragmatic that in some cases it may be more appropriate to have some studies done at a later point in time after Board approval, but it depends on the circumstances.*” (Mark King, World Bank Chief Officer for E&S standards, Transcript, CSOs Forum, Phase 1, April 2014). The final summary of the consultation also includes as one of the overarching comments put forward by the World Bank that participants commented that *“the Bank’s strategy and our policies need to be subordinate to these goals and be flexible to be fit for purpose based on country circumstances and amenable to country systems”* (Summary of Phase 2 Consultations and World Bank Management Responses).

Some Borrowers promote flexibility (for example through the promotion of the use of the country’s systems) in order to have *“feasible,” “implementable”* requirements: *“The Safeguards are characterized by rigidity in some cases and they need to be tailored within a flexible frame to fit and accommodate the social and environmental specificities of the various countries the Bank works with”* (Summary Consultation, Government, Egypt, Phase 1, March 2013). This argument is repeated throughout up until Phase 3 of the consultations: *“The Bank’s staff guidance has a dogmatic approach and is rigid in applying the Bank safeguard policies. It should be revised to allow flexibility to accommodate each country context.”* (Summary Consultation, Government, China, Phase 3, October 2015).

However, given the amount of pushback on requirements from Part 2 during the consultations, it is likely that flexibility is not just promoted by Borrowers as good practice, but as a way to have more leeway as Governments in terms of applying the World Bank requirements. As we have seen, Governments are pushing for less binding requirements: *“The implementation responsibility for the ESCP should belong to the sub-borrower and should not be legally binding for the Borrower.”* (Summary Consultation, Government, Turkey, Phase 3, January 2016). On the contrary, CSOs push for more binding obligations: *“step-by-step requirements for each phase of the resettlement process (...) need to be binding policy requirements.”* (Summary Consultation, CSOs, Paris, Phase 1, December 2012). In fact, flexibility can be used to reassure both sets of stakeholders, either by emphasizing how flexibility will allow for more context specific Safeguards implementation as requested by Borrowers, or promoting the fact that flexibility will allow the World Bank to take into account additional risks and requirements as they emerge: *“Having*

*been a Country Director, I know that projects, very often things can go – even if you did everything upfront – things can go off-track during the implementation of the project. With this safeguard framework, we have a better mechanism to respond quickly and make sure that risks that we didn't anticipate at the outset of the project that happen three years into implementation, are being addressed, mitigated and/or avoided.”* (Hartwig Schafer, World Bank Vice President for OPCS, Transcript, CSOs Forum, Phase 3, October 2015).

Beyond best practice, as put by one interviewee, *“the problem with bureaucracies is that it often comes down to the little common denominator”* (Interview). Flexibility, that is to say the ability to answer one way or the other to a question is perhaps the ultimate example of a little common denominator. More precisely than bureaucracy, bureaucracy combined with banking and meta-organizational pressure appears to shape the final result and the way flexibility is shaped. This is also pointed at by CSOs who raise how organizational pressures in the context of the World Bank have an impact on the application of Safeguards: *“What is missing in the Bank's vision is recognition that the Bank's environmental and social professionals will have little leverage to improve performance of its projects once the projects are approved. Internal pressures to lend and borrower pressures to short-cut conditionalities will leave the Bank's environmental and social staff with little power to ensure stronger performance.”* (CSOs Submission, American University, Erika Lennon, Senior Attorney at CIEL, March 2015). Other meetings specifically point to the meta-organizational pressure, raising that Board conflicts make a decision impossible: *“It is impossible to develop a framework that satisfies all member countries. Therefore, the ESF should be made succinct rather than too detailed. A too detailed framework would not help deliver projects on the ground.”* (Summary Consultations, MS, October 2015). As such, in the context of banking and meta-organizational pressures in order to maintain the organizational legitimacy and shaping the ESF result, the ESF flexibility can also be interpreted as meeting all organizational pressures, which are conflicting, to maintain the organizational conatus, or movement towards organizational maintenance and expansion. From this perspective, the definition of OSER is far from stable; instead, it exists in a state of intriguing *“meta-stability.”* It emerges from a complex interplay of organizational forces, and the seemingly steady nature of the system is actually quite delicate. A mere shift in power dynamics has the potential to alter the outcome, and open new horizons for OSER definition.

In the end, the ESF is compatible with CSOs and States views, as well as with Part I and Part II standpoints, and does not provide a clear definition of responsibility. The framework rather seems like an attempt to reconcile contradictory discourses. As put by a World Bank staff heading the E&S Safeguards reform process: “*The ESF is not simplified, but it is accepted*” (World Bank staff, Interview).

Indeed, as flexibility is a tool to shape a compromise between various contradictory expectations, it triggers completely opposite interpretations in terms of OSER. As put by one interview, the ESF flexibility is double-edged: “*The ESF is a friend and a foe. There is a lot of room for interpretation in the ESF.*” (Interview, World Bank staff). Indeed, it is both perceived as diluting the World Bank’s responsibility (Interview, CSOs) and as maximizing the World Bank’s obligations (Interviews, World Bank Staff). From that perspective, many interviewees really wondered whether the objective to simplify the framework was really achieved.

Phase 3 signals Borrower’s worry about how the interpretation of the framework will be made. For example, Borrowers may be afraid of conflicts of interpretations: “*Qu’advient-il en cas de conflit au sujet du CES entre l’emprunteur et la Banque au cours de la mise en œuvre ?*”<sup>17</sup> (Consultation Meeting Summary, Government, Niger, Phase 3, December 2015). Borrowers may also explicitly raise the concern that discretion will give the final word to the World Bank: “*Regarding the use of Borrower’s Environmental and Social Framework, elements of discretion with the Bank while deciding on the Borrower’s environmental and social framework should be eliminated. (...) The Bank’s discretion: The provision of the ESF on review and gap analysis would provide discretionary powers to the Bank to recommend additional compensation for illegal encroachers. This could cause prolonged Social Impact Assessment, delay in the start of the project, increased project cost, and increase in number of illegal encroachers.*” (Consultation Meeting Summary, Government, India, Phase 3, November 2015). In the context of discretion and Bank’s decision making, Borrowers may want to have more specificity, and know the criteria used in the context of such decision making: “*Acceptability of National Laws being at the discretion of the Bank, what are those discretions? What criteria will be used in*

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<sup>17</sup> Translation: “*What will happen in case of conflict regarding the ESF between the Borrower and the Bank during the implementation?*”

*deciding these discretions? How about sovereignty of nations and Equator Principles?”* (Consultation Meeting Summary, Government, Nigeria, Phase 3, December 2015).

This is shared by some World Bank staff. Bank Staff complain about the implicit obligations and rules of the framework, and are afraid to be “*panelized*” (i.e., that the Inspection Panel investigates one’s project). Indeed, World Bank staff talks about “*an inflation of obligation*” as it is likely to multiply the implicit rules to comply with in order to avoid being considered non-compliant. It is precisely these implicit rules that generate concerns on the part of project leaders: “*The problem [with Safeguards] is related to the implicit rules. For example, gender-based violence. The [project leaders] are freaking out. It’s not clear in the policies and yet it needs to be addressed.*” (Interview, World Bank staff). The debate is perhaps even more important during the E&S Safeguards reform considering that the final ESF draft proposes the possibility to change the risk classification of the project after approval, hence modifying the identified risks and required resources to tackle the risks, while the loan money has already been Board approved. Much angst is stemming from the fact that the possibility to not conduct all studies before approval may lead to missing key risks before project approval and not securing enough money to tackle the risks, which could trigger financial challenges if risks are identified after project approval: “*Participants asked who would cover additional costs that may arise during the life-cycle of a project, for example due to changes in risk classification and new*” (Consultation Meeting Summary, Government, Peru, Phase 3, November 2015). To avoid this, some participants suggest that a change in the project risk profile after approval would require a change in the legal agreement according to Borrowers: “*if the ESCP is an integral part of the legal agreement. an ordinary change of the risk profile and mitigation measures will cause (and in the case of Brazil this is certain to cause due to our legal system) a need for revisiting the project and its legal agreement.*” (Submission, Government of Brazil, Phase 2). However, such change and Board re-submission should be avoided according to them: “*Participants also strongly suggested that, as proposed, ESCP should form part of the overall project negotiations before Board approval and be formulated and managed in a way that would help avoid subsequent changes to the legal agreement and therefore sending it back to the World Bank Board or to country authorities*” (Consultation Meeting Summary, Government representatives, Brazil, Phase 3, March 2016).

While Borrowers are worried about additional costs that may be related to potential changes to the ESCP, CSOs are worried that this may open a way out for Borrowers, especially as some Borrowers have suggested that ESCP changes could be introduced if the ESCP provisions are not feasible: *“It may not be possible to follow ESCP strictly at the time of implementing projects. To implement the ESCP, there should be a provision to revise ESCP at midway of the projects.”* (Consultation Meeting Summary, Government, Bangladesh, Phase 3, December 2015). A such, CSOs are worried that flexibility is an open door to minimizing requirements, diluting them and allowing Borrowers to “opt out”: *“participants criticized the phrase “time frame and manner acceptable to the Bank” in relation to compliance and the Borrower’s commitment to implementation of the ESSs. (...) “Technically and financially feasible” in ESS1 was seen as insufficient phrasing for compensation. Moreover, participants saw the phrase as opening the possibility for Borrowers to not compensate at all.”* (Consultation Meeting Summary, CSOs, Belgium, Phase 3, January 2016). This concern is particularly raised as CSOs are much aware of the organizational pressures that may end up shaping decision making under a flexible framework: *“The proposed framework was perceived as providing too much discretion for World Bank staff in an institution where incentives are oriented toward increased lending.”* (Consultation Meeting Summary, MS, Berlin, Phase 2, November 2014). As a result, some CSOs denounce the “loopholes” of the framework: *“The extreme inconsistency in how the proposed Bank standards will likely apply in practice will result in a safety net with so many loopholes, uncertainties and unaccountable judgments that the original purpose of Safeguards will be rendered ineffective.”* (Final thought of Bank Information Center presentation, November 2014). This is also shared by some World Bank Group staff: *“The Bank culture is rules based. It’s hard in the Bank to have that flexibility. The staff is more risk averse. You hear more “let’s not do this” in the Bank.”* (Interview, IFC staff).

Everyone is worried about this flexibility: *“Borrowers and CSOs were having the same complaint. It is too murky.”* (Interview, CSO).

In this context, the role of an accountability mechanism like the Inspection Panel is a bit less clear, and angst can be felt from both sides. In particular, flexibility is viewed with suspicion: *“The main challenge is the lack of clarity. The ESF is not clear and difficult*

*in many ways. The ESF is a lot about general principles. The ESF is so general and big. There will have to be judgment calls. The Panel jurisdiction will be based on who is in the Panel and who is in [World Bank] Management. Maybe received cases will be clear. But the interpretation will be a difficulty. And it really depends on the different projects, country situations. The nuance in the detail is so critical.”* (Interview, CSO). During a public conference after the launch of the ESF in 2018, a panel representing several distinct MDBs discussed the role of accountability mechanism, and one MDB staff representing the E&S department stated that: *“The difficulty is the accountability mechanism. Independent Accountability Mechanisms have a rigid approach which removes our latitude. They have a way of doing it that is not necessarily compliant with the spirit of our policies. We should revisit how accountability mechanism look at compliance.”* (Law Justice and Development Week Conference, 2018).

Thus, the organizational decision around OSER is taken, decision-making processes about OSER are individualized, and embodied by what the World Bank interviewees often refer to as the *“judgment of the expert.”*

### **3.3.4 OSER individualization**

Flexibility puts intense pressures onto individuals, and on interviewee states that they find themselves in *“schizophrenic paradoxes,” “impossible situations.”* As such, although the ESF is in line with the traditional sharing of roles (appraisal and supervision for the World Bank, implementation for Borrowers), OSER flexibility being both a best practice and a response to organizational pressure can be interpreted as a delay and individualization of decision on OSER definition.

From the perspective of these individuals, the World Bank does everything and does not arbitrate between different contradictory objectives:

*“ More topics are now covered in the ESF. It’s not a bad thing, the evolution of operations means that we are more and more obliged to embrace, to cover more and more subjects on social aspects in particular. (...) But hey, at the same time this translates into increasing obligations in terms of due diligence, in a context where the bank is not necessarily very coherent between the ambitions and related allocated resources. (...) As long as we do*

*not have a somewhat calm and intelligent reflection on what we are looking for at the Bank in terms of objectives... Anything that is badly approached or badly prepared, we pay dearly in terms of execution. I am a little puzzled. So much expertise needed, so much procurement procedure, so much necessity to have access to the skills necessary to execute this type of tool. If we have such strong environmental and social concerns, and in particular when trying to pull national systems from the top, at some point we have to ask ourselves the question of knowing in terms of operations what that means. We need to anchor this environmental and social base. (...) In my opinion, at some point, it's either we set extremely ambitious goals in terms of operational complexity, environmental and social considerations, poverty reduction, and universal mobility, and we are able to align the resources with these objectives (expertise, funding, adjusting preparation and execution timelines, transitioning smoothly), meaning we bring the entire system into coherence, or we don't do it. In that case, two things may happen: Either we don't align resources, but we continue doing what we're doing today, constantly adding more ambitions, and there will come a point where we'll crash into a wall. Or we scale back. At a time when we've just had a historic capital increase, we position ourselves as champions of more humane projects. Is it politically acceptable? Or we don't do operations anymore and we move towards something more universal, with strong, quality, recognized analytics. We can't abruptly stop ongoing operations, but at some point, we need to ask ourselves: Do we continue like this, are we capable of meeting our ambitions?" (Interview, World Bank Staff).*

Some stakeholders underline the need to have proper organizational processes to support sound decision making by individuals. One interviewee from OPCS states that *"Dilemmatic projects have to be the object of institutional decision and should not be the decision of a safeguard specialist."* (Interview, World Bank staff). Reporting and clearance structures at the World Bank include escalation mechanism for difficult decisions: *"We have many resources within the World Bank. If I know somebody who works on labor, I will call that person, even though he is not involved on the same project. Invite people to participate as reviewer of concept note. But very often, I have to formally call them. Generally, people are happy to help. Also, we have a more formal arrangement. In each Country Management Unit, there is a coordinator. One is supposed to be able to contact that person to ask for support. If I need more people, more consultant, that person is*

*supposed to help. I have not done it very much, because the Country Management Unit coordinator works in a completely different country. Of course, he is qualified, but I find it necessary to rely on colleagues. We also have a Regional Safeguards Advisor. I tend to go more to that person because I know her better. That's typically the person I rely on. But if it's a very specific topic, I will call a specialist.”* (Interview, World Bank staff).

However, this is not easy to implement in practice, as the project team retains ownership of project appraisal and supervision, and the ultimate internal responsibility falls on the project team. Additionally, Safeguards coordinator staff may rather be in the headquarters and less context-sensitive, thus triggering a tense dynamic between project staff and Washington DC staff: *“Usually what happens is that we have a discussion and then go the Regional Safeguards Advisor and the Regional Safeguards Advisor decides. I find that a bit weird because I have three managers who are not in [the country I work in]. So they don't have a real true sense of what I am seeing. They are in DC. I understand what is a risk better. I see how they do, how they work. I start overseeing what would be the risks. So for me it's weird. They don't have that sense. They're not there. The RSA is not in the country, and cannot see what I see.”* (Interview, World Bank staff). This is an age-long debate at the World Bank, and restructuring exercises move from staff centralization to staff decentralization. However, the debate may be seen under a new light with enhanced policy flexibility.

Therefore, considering the ESF is focused on the judgment of the expert, there is a need for a particularly strong project team and Borrowers' teams. Project team are composed of a Task Team Leader (who handles the investment aspects of the projects), an E&S specialist and a project lawyer, but the ultimate individual responsibility particularly falls on the Task Team Leader, as they manage the relationship with the client and make investment trade-offs based on the project budget. The Task Team Leader is often perceived as the ultimate decision maker: *“It's really up to the Task Team Leader to push, because they are in contact with the clients. They can influence decisions about disbursement. I don't think I have seen disbursement withheld on this issue [Safeguards]. But ultimately, that can happen.”* (Interview, World Bank staff, E&S specialist). As such, it really depends on the Task Team Leader's agenda and priorities: *“with a strong Task Team Leader and strong safeguard staff, it can be good.”* (Interview, CSO). After one



year of implementation, although this was very early, an E&S specialist told me how diverse Task Team Leaders approaches were of the ESF, as expected: *“My experience with Task Team Leader has been a bit mixed. Some of them really accept what we say and do. I can think of at least 2 or 3 Task Team Leaders that are concerned. We have meaningful consultations. Environmental and social consultations are thorough. At the same time, other Task Team Leaders are not terribly interested. They want the project to be approved. They ask: What document do you need to do? By when? Let’s do that and get the project approved. Thinking of this as an issue of document. That goes against the philosophy of the ESF. The ESF is not about documents, it’s more about processes, ongoing processes of engagement, stakeholder, and managing it throughout the project cycle. Let’s do this document to have the project approved. And then they don’t want to hear about Safeguards anymore. That’s the key part where the institution is promoting a change. This is not just about an E&S report, this is about constantly and interactively identifying and managing E&S risks. Once people start to think that way, then we will have a significant change in how this institution manages these risks.”* (Interview, World Bank staff).

The reform introduced by the World Bank includes requirements for the Task Team Leader to involve Safeguards specialists early on: *“You had the Task Team Leader and the rest of the team. But the ESF, there has been a lot of emphasis on environmental and social due diligence. Now, we’ve seen a shift. Also, what prompted this to happen is the change in the system. The system in the intranet does not allow the Task Team Leader to move forward without the E&S specialist. They created a few steps on the intranet. This has also made them realized that they need to involve us from the beginning. This is making a lot of difference.”* (Interview, World Bank staff). But similarly to Task Team Leaders, E&S specialists may also have different approaches to Safeguards. For example, depending on whether the project team construes E&S risks as institutional risks (*“how do I check the box to avoid the Panelization,” “how do I avoid reputational risk for the Bank”*) or for themselves (*“how do I avoid E&S risks from materializing or mitigate when needed?”*), the judgment of the expert may particularly differ.

The ultimate results also depend on the project team dynamics: *“When you are a Task Team Leader, you have an important coordination job, and it’s sometimes not easy to*

*bring together all the contributions from everyone, especially in terms of Safeguards, procurement, as people may not have the time, etc. We are dealing with a dynamic within the team that can be extremely cumbersome or laborious. This doesn't allow for timely contributions.*" (Interviews, World Bank staff, Task Team Leader). As put by a former Country Director: *"Sometimes, in addition to the vagueness of politics, there is the vagueness of the person (supposed to interpret the politics)."* (Interviews, World Bank staff).

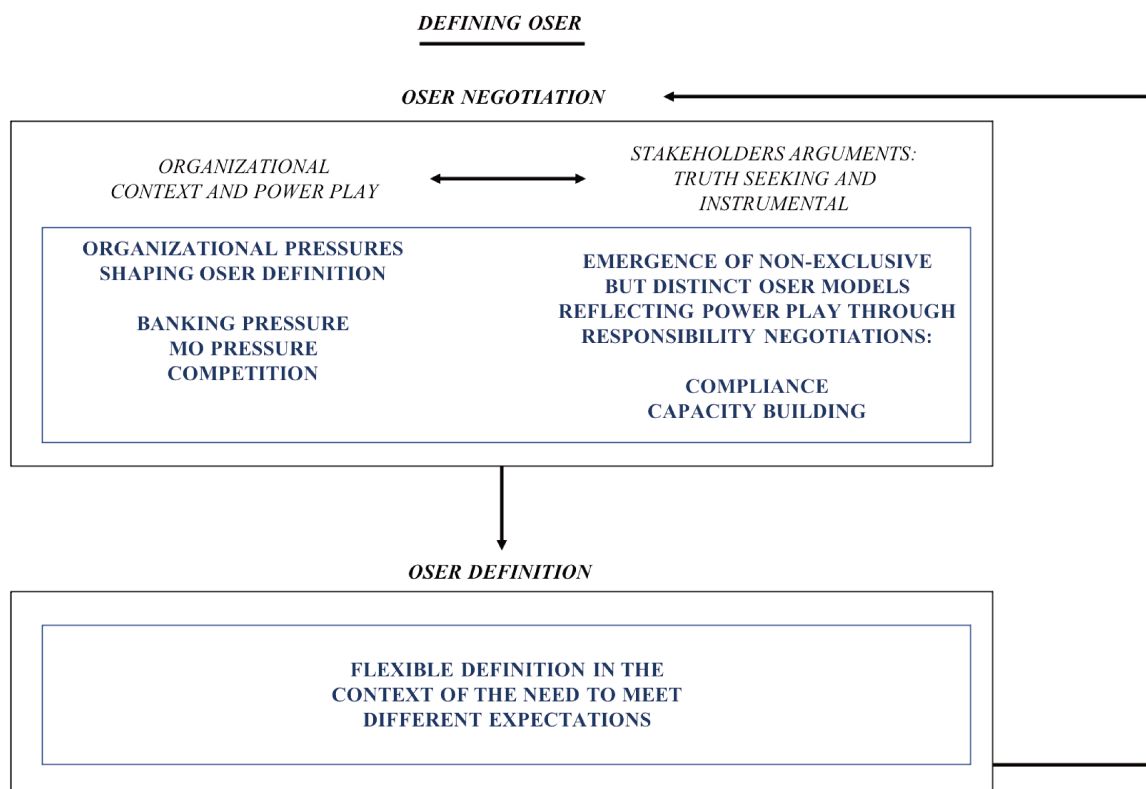
Individual decision-making is also shaped by organizational pressures and incentives: *"Once again, the resources and development schedules are becoming increasingly constrained because we are given less and less time and are asked to handle more and more tasks"* (Interview, World Bank staff). The importance of systems to support decision making was already raised during the consultation *"World Bank staff members who take decisions on the interpretation of the rules on a case-by-case basis need to be given appropriate resources, incentives and decision-making powers to enable them to exercise their responsibility on a long-term basis."* (Submission, Germany, Phase 2). Some interviewees also argue that avoidance of certain Safeguards should have individual career consequences: *"[In a project I was working on], Task Team Leaders were trying to avoid triggering ESS7: we are going to work there, and how do we avoid triggering ESS7? That completely goes against the World Bank policies and principles. If a Task Team Leader is caught saying that, they would be fired. If we advise them how to avoid triggering a policy, it's the same. The World Bank should not finance activities which exclude certain population. Vulnerable peoples are not supposed to be excluded from project intervention. If you are trying to avoid triggering a policy that's a serious issue. Unfortunately, people think that way. A Task Team Leader has to know this could put his or her career at risk."* (Interview, World Bank staff). However, and even though the Task Team Leaders are considered to be the ultimate responsible party, refusing certain projects on the basis of development also has career consequences: *"Do we have a choice in our operations? We always have the option to say no, but when you are assigned an operation, it is always difficult to say no."* (Interview, Task Team Leader).

The increasing organizational pressures result in the need for flexible frameworks. In turn, a flexible framework makes policy interpretation more sensitive to these organizational pressures.

### 3.4 Synthesis

In summary, our results show the different dimensions of OSER negotiation through an analysis of the ESF reform: analysis of the negotiation structural context, analysis of the negotiation process, analysis of the negotiation result.

The below figure builds on the Nvivo coding to present how our results analyze the definition of OSER and how it applies to the World Bank (blue text in the figure). Analyzing how actors define OSER requires an analysis of the negotiation structural context and of the negotiation process. The context and the process shape each other and lead to a result: the OSER definition. In the case of the World Bank, the OSER definition process can be seen as resulting from an ambiguous decision-making process shaped by different and contradictory expectations. The final OSER definition is flexible and still leaves the door open to many interpretations. In turn, OSER definition may contribute to shaping future negotiation context and process on OSER.



*Blue: when applied to the World Bank OSER in the context of the ESF consultation*

Figure 22: High level coding structure integrating contextual, processual and substantive results

First, I have shown that the negotiation structural context is made of banking, meta-organizational pressures, exacerbated by the environmental competition the World Bank is facing. I have also shown that this structures the World Bank organizational power play, reflecting a traditional divide at the World Bank: Borrowers and Part 2 on the one side, and CSOs and Part 1, on the other side.

Then, I have looked at the ESF negotiation from a processual lens, focusing in particular on the recurrence of questions on OSER as well as the conflicting associated arguments used by different stakeholders throughout the consultation. Describing the divergence of points of view, I have categorized two models of responsibility, which are not exclusive, but often not represented by the same stakeholders: the model of responsibility as enforcing compliance and the model of responsibility as building capacity. I use the definitional framework to show how these two non-mutually exclusive but distinct models reflect different stakeholders' take on OSER definition.

Third, this study presents substantive results, based on the final ESF as approved unanimously by the Board, which is characterized by its flexibility. This flexibility may be interpreted both as maximizing and minimizing the World Bank's responsibility, thus conveniently reconciling the competing rationales on OSER and at least formally keeping the World Bank's unity, in line with the World Bank's conatus. I explore how this flexibility may be interpreted as a best practice and as a means to delay the World Bank's decision on its organizational responsibility in the context of the World Bank's organizational characteristics. If OSER definition is at least in part a response to organizational pressures, OSER definition is not stable, it is rather "*meta-stable*," in the sense that it is the result of a series of organizational forces and that the apparent stability of the system is precarious, as any change in the power dynamic may change the result, thus actually opening the horizons of responsibility definition.

The current flexible response provided to OSER definition can be seen as an advantage to maintain the unity of the MO, but this also results in frustrations on the part of project leads, as they feel pressured to take difficult and challenging decisions in lieu and place of the institution itself. From this perspective, response to organizational pressures can be interpreted as delay and individualization of organizational decision making on OSER. This means that at the individual level, future negotiations are sensitive

to organizational pressures, which may further contribute to exacerbate and ultimately shape these pressures.



# Chapter 4

## Discussion

*“So What?”*

Miles Davis (1959)

Chapter 4 discusses this thesis results, assessing the fruitfulness and gaps of PCSR and MOT, and showing how the responsibility definitional framework leads to key conceptual contributions to these theories as well as to social sciences in general. It also describes the limitations of this study, opening the horizons for future research on the topic.

I have shown with this study that PCSR offers distinct opportunities to look at OSER definition as well as the ever-negotiated roles and responsibilities in evolving economic and political contexts. By looking at OSER definition with a PCSR lens, this study also contributes to some of the current PCSR debates and gaps, some of which overlap with current CSR gaps. Indeed, PCSR being a sub-field of CSR, some CSR gaps are shared with PCSR and it is not surprising that some of our contribution would be relevant both for CSR and PCSR.

This study also shows how instrumental the literature on MO is to study an IGO like the World Bank, especially when it comes to OSER and related agency paradoxes, and how a specific research focus on OSER may in turn further develop and enrich key lessons of the MO literature in terms of actorhood.



This study contributes to CSR, PCSR and MO as it allows to analyze OSER negotiations (4.1) and OSER definition (4.2) in an intergovernmental organization which is a privileged platform to observe the debates and associated results on States' roles and States divide between developed and emerging countries (4.3.). Beyond the Management literature, we further reflect on the usefulness of OSER theory building in the social sciences (4.4.), before diving into the limits of our research, opening future research avenues (4.5.).

## 4.1 OSER negotiation

In studying the negotiation of responsibility, this study contributes to CSR and PCSR by describing the interrelations between power and arguments, showing the different intertwined lines of stakeholders' arguments on the topic of responsibility, as well as the distinct relationship of shareholders and non-shareholders.

This section particularly reflects on how this study complexifies our understanding of stakeholders' interactions in an MO setting (4.1.1), reflects on the interrelation between power and arguments and the associated implications for debates on the value of Habermassian dialogical negotiation in the PCSR literature (4.1.2), and further describes how different types of OSER negotiation situation can be thought about to further build theory on OSER definition (4.1.3.).

### 4.1.1 Interconnection between MO members and stakeholders in the negotiations: contribution to MOT and CSR/PCSR need to complexify our understanding of stakeholders' interactions

This study contributes to CSR literature, responding to the call to go beyond the binary perspective between shareholders and non-shareholders stakeholders (Wang et al., 2016), as our results show that shareholders have very different perspectives and non-shareholder stakeholders do not necessarily have homogenous opinions either. On the contrary, this study shows certain alliances between shareholders and non-shareholders stakeholders. For example, CSOs and Part 1 shareholders have certain partnerships which sometimes

work against Part 2 shareholders. This game of alliances and influence is very instrumental: as put by a CSO representative, as long as shareholders allies are aligned with CSOs interest, there is a partnership. As such, on specific issues, alliances may evolve, although CSO-Part 1 and client-Part 2 is the usual alliance landscape. While these additional complexity in the shareholders-stakeholders landscape may be linked to the very specific nature of shareholders in the case of the World Bank, i.e., the fact that they are States, and have political interests with their constituencies, this may also particularly show the complex types of relationships different actors may have in a negotiation in the context of global governance and further nuance a binary perspective systematically opposing shareholders and others stakeholders when it comes to responsibility on E&S issues. This also contributes to MOT (Ahrne and Brunsson, 2005, Berkowitz et al., 2022) as it further precises the complexities that can be associated with different alliances of MO members with external stakeholders in the context of MO negotiations. This theoretical contribution also offers a practical contribution on negotiation: showing how one may navigate a negotiation in an international organization, looking at the patterns of alliances in IGOs/MOs, as well as the contemporary power play in such organizations.

#### **4.1.2 Interrelation between arguments and power: contribution to CSR as well as PCSR debates between Habermassian and critical perspectives**

While initial PCSR is very rooted in a Habermassian understanding of negotiations, critical PCSR will rather focus on organization's power. This study contributes to this debate (Scherer & Palazzo, 2011, Levy et al., 2016, Sabadoz & Singer, 2017) showing both the role of arguments and power play, which is key to understanding both the limits and interests of a Habermassian deliberative democracy lens but also of a power-focused perspective – and reiterate the fact that the power of IGOs in negotiations also relies on their argumentative power and perceived coherence and expertise.

Indeed, when looking at the way responsibility is negotiated, many arguments and discourses are conveyed by all stakeholders. From that perspective, consultation could be perceived as a speech exercise, a gameplay to structure each other's narrative about the World Bank responsibility on E&S aspects. However, negotiation is not a pure world

of discourses. The structural power dynamics of the negotiations have to be taken into account: a World Bank led discussion, in a world where the Board has the ultimate word, where competition from other sources of finance (but also coordination with other sources of finance) cannot be neglected. Yet, should this speech exercise be seen as an empty institutional agitation to structure legitimacy about the framework? The fact that arguments are vehemently used by all parties, including by the most powerful ones, requires an explanation. I note that this is in line with recent evolutions in international relations: while past negotiation theories often analyzed arguments as epiphenomenal to power and interests, we have seen a “*deliberative turn*” in recent international relations literature (Neyer, 2006, Risse & Kleine, 2010).

But what is the actual role of speeches and arguments in the negotiation? This reflection should also take into account the fact that many arguments are conveyed to legitimize pre-existing positions and stakeholders’ positions are not necessarily built through arguments but rather, often, arguments are built given positions. One example is the difference between Borrowers’ arguments about the World Bank responsibility on Borrowers (pushing back against enforcement but pushing for support) and Borrowers’ arguments about the World Bank responsibility on contractors (pushing for an enforcement role Borrowers argue they do not have the capacity to play), sometimes with contradictory arguments. In this case, are arguments through the consultation just a legitimation exercise? However, if all actors actually have unmovable pre-existing positions, then no stakeholder is actually prepared to be persuaded (to change position), and arguments become irrelevant. The question therefore remains: why then, would all stakeholders, even the most powerful ones, use arguments? “*Arguing*” as truth-seeking (for example, without pre-existing positions) and “*arguing*” as strategic rhetoric (for example, to sustain pre-existing positions) is not empirically observable. Some arguers would not even necessarily always know the difference for their own arguments, given that at the heart of the debate, one may need to believe the argument is truth-seeking to be convincing, even if the argument is initially rhetorically strategic.

Drawing on Risse & Kleine (2010) work, I emphasize that the necessity to argue at the World Bank, or at least the fact that various World Bank stakeholders keep making arguments, is linked to several factors:

- Some stakeholders could be seen as having *overlapping roles and identities*: Board members are both representing the Board of an organization and their countries. It is often the case that Board representatives in IGOs are perceived with a certain degree of autonomy, thus leading to more leeway to actually be convinced by arguments.
- The consultation is *public*, requiring some argument consistency from participants, especially as one key stake for the World Bank is to remain credible in the eyes of various stakeholders, as it has been fighting against a credibility deficit since the 80s.
- Board meetings are held *behind closed doors*. This also enables stakeholders to talk freely once the preference of the audience is known throughout the advancement of the consultation phases.
- In an institutional context where *expertise* is one of the value-add of the World Bank, one has to show expertise – and therefore arguments, rather than just power, as part of its power precisely stem from its expertise. “*Speakers that seek to affect the outcome have to frame their interests in a way consistent with recognized and consensual knowledge,*” especially when “*the institutional norms and procedures privilege authority based on expertise and/or moral competence*” (Risse & Kleine, 2010, p. 12).

This study’s data shows the arguments are not necessarily powerful, according to the various below indicators suggested by Risse & Kleine, 2010:

- Actors do not give the *same reason for agreements*, they in fact have contradictory worries about the framework on the basis of contradictory arguments.
- It is hard to argue that the ESF result is *surprising* with the benefit of hindsight. The ESF result is very close to the IFC Performance Standards, thus rather pointing towards an unsurprising result rather than a surprising one.
- There is no *early agreement*: on the contrary, the consultation lasted two more years than expected.

- The *influence of weak* actors is not ascertained. First, while some stakeholders that could be considered weak did participate in the negotiations, their weakness is very relative: for example, CSOs and communities concerns are channeled through Part 1 members countries, which are themselves very powerful. The difference in arguments between small states (who are the weak actors of the Board) and big states is not easy to actually identify. Therefore, it is unclear whether these “*weak*” actors did have a lot of impact on the results.

When looking at the result, although no indicators pointing to the power of arguments are met, arguments did seem to have some role in the shape of the new framework. Indeed, in reaching the compromise, arguments are used to reach the solution for compromise: the solution stems from stakeholders’ arguments, not necessarily from their position. For example, even if Borrowers may argue against the terminology “*indigenous peoples*” because they actually do not want to have costly requirements in some projects, this argument is at the heart of the solution found by the World Bank: another term is used for “*indigenous peoples,*” but requirements for a specific part of the population does not disappear. Also, although very difficult to ascertain, when arguments are put on the table for a certain period of time, they gain more prominence: in the effort to respond to arguments, it is not impossible that arguments would be somewhat interiorized by negotiation opponents. For example, part of the negotiation on responsibility is a negotiation on the risk of responsibility actions – financial risks, legal risks – and the risks of not taking responsible action. As argued by Douglas & Wildavsky (1983), risk is socially constructed: in this negotiation about risks prominence, all risks seem to gain more prominence. This is exacerbated by the length of the negotiation, which allows stakeholders to actually digest each other’s arguments.

As such, both power play and arguments need to be taken in to account in PCSR. While this study recognizes the importance of power play in line with critical PCSR, it also contributes to pointing to the importance of arguments in the negotiations, arguments which paradoxically seem both ineffective and effective vehicle to convince stakeholders, as there is no indicator that they are powerful but still seem to be taken into account in the negotiations results. This study also contributes to providing an account of the types of interrelations power and arguments may have in an organizational negotiation process

involving a wide variety of interdependent actors, mirroring what intricate negotiations may entail in the context of global governance. It therefore integrates critical PCSR perspectives on power while describing under which conditions Habermas deliberation can still be perceived as a relevant concept when looking at PCSR debates.

### **4.1.3 Classification of OSER negotiation situations**

This thesis is the opportunity to understand the depth of one situation of responsibility negotiations. However, many different types of responsibility negotiations could exist. As such, this study can also be seen as the dawn of establishing a typology of OSER negotiations. The ESF is an example: it was triggered and to some extent controlled by the World Bank through an established institutional process and it was policy based. One could imagine a project-based crisis which is not controlled by the World Bank and where the institution has to react in a much less established manner. The below simple matrix (Figure 23) presents one possibility (among various other options) to categorize various OSER negotiation situations. Whether the negotiation is policy based or project based, whether the negotiation is institutionalized or not, can lead to different OSER negotiation situations: project based and non-institutionalized, project based and institutionalized, policy based and non-institutionalized, policy based and institutionalized. When looking at the World Bank history mentioned in the introduction, different pieces of the World bank history can be classified under each of these situations. Structural adjustment programs critiques can be seen as policy based (because targeting structural adjustments) non-institutionalized, because the World Bank did not establish an institutional route to receive criticism on the structural adjustments. The Narmada project contestation can be seen as project based and non-institutionalized negotiation, as it was triggered in the context of the Narmada project, and was originally a spontaneous social movement in India (not orchestrated by the World Bank). Inspection Panel cases can be seen as project based and institutionalized: the complaint is project based, and the Inspection Panel would not receive a complaint that would not concern a project, although the complaints may come from affected communities, they go through a process that is well established at the World Bank Group level. One can see how these different situations interact, because the Narmada social movement is one of the reasons which led to the creation

of the Inspection Panel. Such categorization of OSER negotiation situations facilitates comparison of such situations, as certain negotiation settings may lead to different types of outcomes.

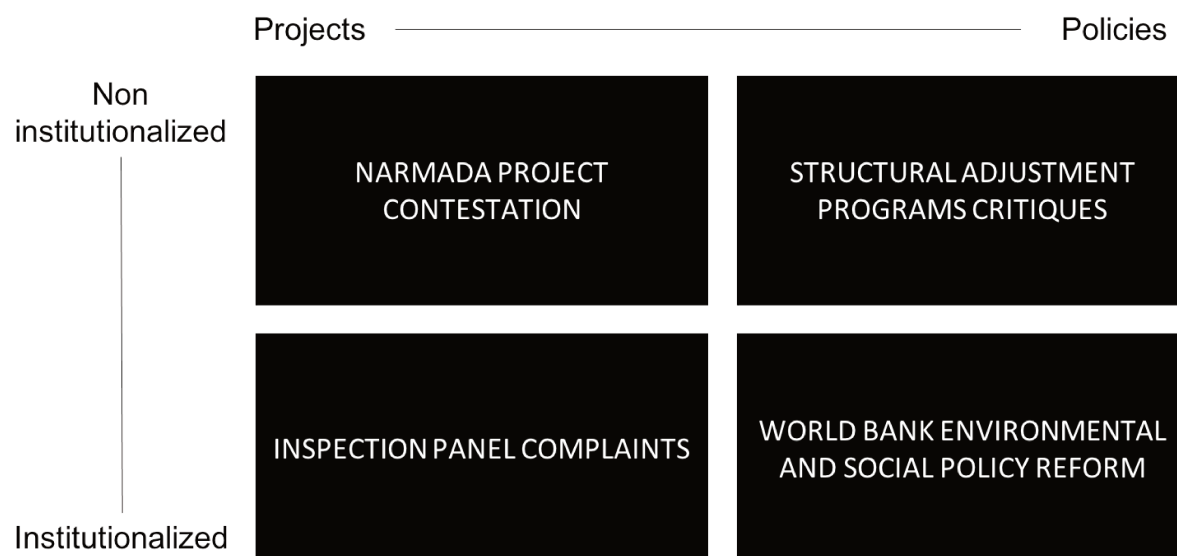


Figure 23: Different types of OSER negotiations

## 4.2 OSER definitional debates

Beyond the negotiation process associated with OSER definition, this study also contributes to an analysis of the core definitional debates on OSER.

This sub-section particularly describes how this study contributes to CSR/PCSR and MOT by precisising core definitional debates on responsibility (4.2.1), reflects on the possibility of OSER (in)definition in the context of MO pressure and how this contributes to the debate on win-win and trade-offs CSR (4.2.2.), to finally discuss the individualization of OSER decisions and its implication for CSR (4.2.4).

### 4.2.1 Contribution to CSR/PCSR and MOT by precisising core definitional debates on responsibility

This study contributes to CSR and PCSR in showing the different controversies linked to OSER definition. Similarly, it provides further precision to possible definitional debates on responsibility in the context of MOT. Indeed, MOT states MO responsible actorhood is multi-directional, mediated, and negotiated (Berkowitz et al., 2022). This study's data demonstrates that these three criteria are met: the consultation is multi-directional, with complex ties of accountability, it is by definition mediated through the consultation process, but this mediation is particularly controlled by the World Bank Staff in this study's case, and it is negotiated through a deliberation that also entail crucial power play. However, these criteria do not ensure clear responsibility definitions. On the contrary, they can be interpreted as structurally (but perhaps inevitably) maintaining certain ambiguities, even though authors in MOT contend that *“the creation of a meta-organization means that a centre for responsibility has been established, thus providing a forum to which complaints and protests can be directed”* (Ahrne and Brunsson, 2005, p. 448).

The use of a responsibility definitional framework that combines different responsibility models and viewpoints, including the liability model and social connection model, also brings value to current research using Young in PCSR, as such combination allows for a broader understanding of the debates on responsibility as well as the interaction between different types and models of responsibility, in particular backward-looking and forward-



looking. To the question raised by Phillips & Schrempf-Stirling (2022, p. 15): “*For any given occurrence of structural injustice, how are we to know which model is most appropriate to inform our understanding of responsibility?*”, one can wonder: why would there be a need to have a most appropriate model? Isn’t it more appropriate to make sure responsibility definition has been scrutinized under all perspectives informing how responsibility is debated and defined?

The application of a descriptive responsibility definitional framework to a concrete situation enables me to comment on normative principles that have been suggested on responsibility assignation. In particular, in the literature review, I mentioned Afländer (2021)’s article, which outlines the tenet of subsidiarity as a fruitful normative principle to support responsibility assignation, building on a natural hierarchy going from the individual to the nation State or even beyond to intergovernmental organizations, where no task should be assigned to a higher level of authority if it can be accomplished by a lesser and subordinate entity, but where higher levels would be assigned responsibility if the accomplishment of the respective task exceeds the means and capacities of the lower level entity. While the proposal for responsibility assignation through a principle of subsidiarity is stimulating, an analysis of the debates by World Bank stakeholders shows that the World Bank is far from clearly defining its OSER as a “*last resort*” responsibility to solve issues that could not be solved at a “*lower*” level, even though it can be argued that the Bretton Woods institutions have been indeed imagined as lenders of last resources, meant to provide finance in poor countries where there would be few or no alternative sources of finances without their help. Such reluctance to clearly apply a subsidiarity principle to the World Bank’s OSER definition may be related to the fragile organizational balance the World Bank is confronted to, coupled with its essential organizational conatus, and the fear that being “*last resort*” may overwhelm the organization in a way that would unsettle the World Bank’s organizational balance and its possibility to keep thriving as a meta-organization and as a bank in a competitive environment.

Based on the tenet of subsidiarity, while the assignation of a last resort role to the higher level would be due to the fact that the accomplishment of a task exceeds the “*lower-level*” entities (e.g., States, companies), in the case the World Bank, on environmental and social issues, key stakeholders would argue that responsibility to solve such environmental

and social issues exceeds the capacity of both “*lower*” levels like individuals, companies, and States, and “*higher*” level like the World Bank. As such, when applying the lens of subsidiarity to such concrete debates, there would be an unsettling void of clear last resort responsible parties, pointing to possible organizational powerlessness in the face of global challenges. Indeed, as put by ABländer (2021), “*if there is no highest authority, which would be able to orchestrate the activities of lower level instances in society to create a legitimate free space for civil society activities and to intervene if the tasks are accomplished insufficiently, the idea of a subsidiary ordered society becomes problematic.*” (p. 8). The normative principle of subsidiarity therefore appears to be challenged by the ordeals of practice, when it comes to the reception of similar proposals from the concrete organizational point of view of the World bank, thorn between its global developmental mandate and its particular organizational nature and associated organizational pressures. This can be interpreted as reflecting the typical struggle between the general (in this case, global need to have responsible parties) and the particular (in this case, the organizational need to defend the organization against threats to the organizational balance) when it comes to tackling societal challenges, going back at least to Rousseau (1762), outlining conflicts between the general and the particular in the context of the general will. Alternatively, this can also be interpreted as showing the limitation of an ever-expanded responsibility, where actors may perceive and/or argue that a “*last resort*” role is equivalent to the risk of being “*responsible for everything,*” even though the tenet of subsidiarity precise that the higher level should not act if a task can be accomplished by a lesser and subordinate entity. While this study shows limitations in the practical implementation of the principle of subsidiarity for responsibility assignation, one should not conclude that the tenet of subsidiarity should therefore be disregarded: on the contrary, this analysis shows its heuristic value to stimulate further responses but also more questions on responsibility definition, and the possibility for future studies to consider further nuancing the “*natural*” hierarchy on which the tenet of subsidiarity is based (from local to national to supra-national), to develop a more precise account of intertwined power, capacity and dependence of organizations, which cannot be seen as structured through a simple hierarchy and linearity in a complex globalized world.

This study’s responsibility definitional framework shows that two responsibility definitions are particularly clashing with two non-mutually exclusive but distinct models: re-

sponsibility as imposing compliance and responsibility as capacity building, which echoes and confirms the relevance of Supiot (2015)'s categories of “*surveillance of the vassal by the suzerain*” and “*support of the vassal by the suzerain*” (p. 295) or Etchanchu & Djelic (2018)'s re-conceptualization of power dynamics through the poles of control and care. Going further than naming and describing such categories, this study also describes how different stakeholders' roles and interests shape the narrative for promoting surveillance, control and compliance on the one hand, or support, care and capacity building on the other hand. This is in line with Ormaza & Ebert (2019)'s study on the World Bank ESF, showing that related conflicting demands included, on the one hand, CSOs and donors countries' demands for the integration of more requirements, like human rights, and on the other hand, Borrower countries demands for respect of borrower's sovereignty and project ownership, with the view that meeting Safeguards cost time and money and that borrowers need discretion to preserve their autonomy. However, this study goes one step further, and ties the results to the very definition and concept of responsibility, intrinsically linked to power and at the core of the ESF debates.

This study further demonstrates how the two non-exclusive but distinct models can be tied to separate patterns on arguments along several intertwined lines of controversies: *Responsible to whom?* (clients or project-affected people); *For what?* (which is equivalent to asking the question of what is development, linked to the question of what do we want as a society, and which runs deep in terms of controversies but is not necessarily at the front and center of the negotiation debates); *According to what standards?* (political or apolitical, which legal norms, and how to address the debate on whether universal values or State autonomy). It also shows that defining the connection to an impact is a key question, and this question may lead to responsibility expansion (inclusion of indirect impact) but the main focus is still on who caused the impact. Non causal responsibility is less central in debates, even though Borrowers' arguments around the need to get support from the World Bank point to that non-causal responsibility, as it does not assign blame to the World Bank but rather assumes that the World Bank has the capacity to support. However, this study also points to the fact that there remains unclarity in defining responsibility depending on the connection to the impact – defining roles with direct and indirect impacts is not always easy. In particular, forward-looking responsibility to prevent/stimulate impacts expands responsibility in an unprecedented manner and the

boundaries of such responsibility are unclear. For example, is the World Bank responsible for missing a risk that was missed by the Borrower when evaluating the risks of the project? What if this risk is context-specific and should be relatively straightforward to identify? One can consider for instance gender-based violence in the DRC, which can be viewed as a typical contextual risk in the DRC. Based on this, the Inspection Panel determined that the World Bank had not adequately fulfilled its monitoring responsibility by failing to exercise due diligence regarding gender-based violence risks. What if the risk is unlikely to materialize? One can consider, for example, a natural disaster that could not have been easily foreseen. Through these examples, we can observe how responsibility may ultimately depend on what can be *reasonably* expected to be known and controlled by stakeholders. As put by Phillips & Schrempf-Stirling (2022), “*artificially imposed ignorance catalyzes structural injustice. Sub-sub-sub-contracting relationships, Russian doll articles of incorporation, and shell game holding companies are only a few of the structural innovations that have facilitated systemic injustice. Any model of responsibility that permits or encourages this sort of manufactured deniability is itself an irresponsible model.*” (p. 13). Honest ignorance can also be viewed as a fault if one has not exerted its responsibility to have and perform “*illuminative intention,*” i.e., “*openness to seeing and understanding sources of structural injustice and its amelioration*” (Phillips & Schrempf-Stirling, 2022, p. 13). However, in some cases, ignorance may also be structural and impossible to breach, even with the utmost illuminative intention, especially in ever-increasing global interconnectedness and complexity. OSER, including causing an impact and having the capacity to remediate an impact, is also further complicated by the fact global governance systems function by project, which entails structural difficulty in covering prior project and post project long term impacts. Future studies could focus on the development of realistic epistemic responsibilities in order to distinguish between different types of ignorance and responsibilities in the context of project-based global interconnectedness and complexity. Future studies could also even consider the way project-based initiatives may themselves participate in structural injustices or on the contrary be necessary means one can no longer do without actors to coordinate action at the global level to fight structure injustices, despite the constraints they pose in terms of responsibility.

#### **4.2.2 OSER (in)definition in the context of banking and MO pressure: contribution to CSR debates on win-win and trade-offs through an analysis of flexibility**

Flexibility is promoted as the best practice when it comes to E&S risk management. Under complicated circumstances, the institution relies on the judgment of the expert, especially as the organization's value add is particularly grounded in the expertise it sells. Standards discretion is justified by arguing that enhanced flexibility is structurally necessary in the context of diverse projects and programs. For example, on the uncertainty around how to decide who belongs to project-affected people category, Castello et al. (2016) state that *"the drafters of the ESF and the Guidance Notes repeatedly pointed out that development projects are too diverse, and that the identification exercise of affected people is inevitably contingent on the circumstances of a particular project."* Given the complexities associated with responsibility, and the distinct case by case scenarios that can be imagined leading to different responses on OSER, a certain degree of flexibility seems to be warranted.

However, conflicting pressures related to development banking as well as the World Bank meta-organizational nature can also be interpreted as incentivizing the institution to avoid making controversial decisions. The ultimate World Bank framework is very flexible and is both considered as a friend and a foe by all stakeholders. It is a solution to reconcile (but also to some extent frustrate) all stakeholders, solving conflicts stemming both from MO and banking pressures structuring global coordination at the level of an IGO like the World Bank. This is in line with international relations' discussion on the formal adherence to ideals: *"One can wonder about the reasons which push the States to subscribe, at least formally, to [ideals] whereas their practices are often far removed from them. The existence of a common scope facilitates the commitment: the more general the objectives, the less particular interests are crumpled. It is therefore politics as usual to build multilateral cooperation by announcing ambitious goals that no one can achieve. In this sense, ideals are functional, even if they carry serious contradictions and lead, in practice, to many disillusion."* (Devin, 2016).

The CSR literature shows that there is a swing movement between perceiving economic objectives and E&S objectives as being the object of synergy or trade-offs (Hahn et al., 2010, Crane et al., 2013, Spitzeck, 2013, Wang et al., 2016, Van Weeren, 2021). The way the banking pressures are illustrated at the World Bank rather shows that win-win arguments are a response to banking pressures, in order to get stakeholders' buy-in from a banking perspective. However, stakeholders negotiations manifest certain key trade-offs that one has to make between sound E&S processes and banking objectives. There may be win-win arguments that hold true, but the win-win institutional discourse tends to eliminate the description of necessary trade-offs, which further re-emerge in various stakeholders meetings. This is particularly evident with the question of timing in the application of E&S requirements: banking agendas require urgency, while robust E&S assessments require time, and results have shown the question of timing comes back as a key question throughout the negotiations. While banking pressures at the World Bank are well documented, as the concept of approval culture was already put forward at the time of the 1992 Wapenhans report, this study's result still contributes to confirming the continuity if not exacerbation of the dilemma in contemporaneous settings and put in perspective the CSR debate on win-win perspectives vs. trade-offs perspectives.

This idea that OSER's debate is rife with conflicting objectives despite win-win institutional discourse is in line with CSR studies emphasizing trade-offs and contradicting objectives (Hahn et al., 2010, Crane et al., 2013) as well as with Robertson & Swan (2003): the management of paradoxes and contradictory injunctions arising from structural tensions lead not to the reduction of structural tension but to the development of a compatible culture. Organizing paradoxes can be managed by (re)producing a culture *"favoring high ambiguity, that is, a norm developed at the meta-level which decrees that, at the level of work practice, there should be no norms"* (Robertson & Swan 2003, p. 832). This is not necessarily a *"twilight zone of perpetual decision making"* (Denis et al., 2011, p. 229), but rather a decision to leave certain issues flexible enough that they can be viewed as undecided. Overall, the resulting (in)definition of OSER reflects both the expansion of the responsibility domain, which additional coverage, and the increasing puzzle of responsibility in the face of global challenges.

As such, this study contributes to PCSR by showing the ambiguous nature of decision making on organizational responsibility, in between best practice flexibility and indecision constrained by organizational pressures, thus paving the way for a better understanding of the increased standardization on E&S issues, but also the associated underlying organizational and institutional mechanisms shaping this understanding. Although somewhat a best practice, this maintained flexibility can also be detrimental in moving forward the responsibility debate on global governance of grand challenges.

That there is a trade-off between flexibility and responsibility is a well-known fact, which has particularly been analyzed under the flexibility and accountability lens (e.g., O Looney, John, 1992, Owens, 1992) or can be interpreted as an example of the flexibility and control paradoxes (Jarzabkowski et al., 2017). In this study, I have shown that the structural organizational context can be viewed as the condition shaping decision making on this trade-off. There is therefore an inherent tension in the way flexibility is designed. Future studies could focus on whether OSER flexibility is always cultivating a certain indecision on OSER in tension with clear responsibility, or whether it would be possible to design “*flexibility*,” keeping what makes flexibility inherently best practice, in a way that would still enable organizational clarity and decision making on OSER.

### **4.2.3 Individualization of OSER decisions: accounting for the resurgence of the individual in organizational context**

As shown in this study and noted in other studies on the ESF, the results of the ESF dramatically increase the ambivalence of the criteria for the concrete application of these requirements (Dann & Riegner, 2019, Jokubauskaite, 2019, Ormaza & Ebert, 2019). This door opened to discretion can tend to individualize decision making on OSER.

Under a flexible and judgment based framework, considering that organizational conflicting ambitions and pressures are maintained, while the framework has been approved at the organizational level, individuals are the ones who need to take certain decisions when it comes to contradictory organizational ambitions, although they do have some (but contested) organizational support and the ability to escalate dilemmas to management, as well as some lines that cannot be crossed individually (for example, there is

very little room for an individual to say no to a project on the basis that the individual would feel that this project is not in line with development). This is in line with Dann & Riegner (2019)'s conclusion that policy interpretation on the Safeguards will greatly matter (Dann & Riegner, 2019) and that the role of those who are in charge of negotiating projects is particularly crucial, as they are the ones who will find the right concrete balance of policy ambivalences, which thus raises the question of who negotiates and how (Jokubauskaite, 2019). Given the organizational pressures, powerful States would especially enjoy discretion privileges according to some authors. For example, according to Dann & Riegner (2019), the "*domestic systems of stronger powers are more likely to get approved as 'materially consistent' and hence exempted from the ESF*" (p. 31). This is also in line with other articles looking at how geopolitically important client States (e.g., UNSC membership, UNGA alignment, bilateral aid from the U.S., and trade with the U.S.) would be less likely to be rated as risky or to get unsatisfactory ratings (Gallagher & Kilby, 2018). On the other hand, countries with low capacity would have less bargaining power regarding their requirements, although they would also have more difficulties to implement them.

It is worth questioning whether the promotion of flexibility as a best practice is not also part of a more general movement of individualization of decision-making on E&S matters. This study particularly focuses this debate on the question of responsibility, where the question of attribution is central. In the context of a study on responsibility, and even though hard law on E&S responsibility is expanding, this may also be part of a movement of responsibility individualization, reflecting the difficulty to actually collectively address responsibility challenges, as well as decoupling strategies to leave core activities unaffected (Ormaza & Ebert, 2019), through enhancing both coverage and discretion of the requirements. This study also contributes to detailing the internal organizational dynamics of the World Bank, showing how these pressures may influence individualized decisions on responsibility, as well as the individual frustrations this may result in. This contributes to CSR by articulating how individuals can be put at the center of OSER decisions, despite the need to find collective and organizational solutions to responsibility puzzles. In the case of the ESF, the balance between collective OSER and individual responsibility rather seems to put significant weight on the side of individuals, in a context of contradictory injunctions, despite organizational possibilities to escalate



decision making. This also points to possible future research on the day-to-day experience of individual decision-makers regarding OSER and whether escalation mechanisms are effective in the context of dilemmatic individual decisions.

## 4.3 State responsibility

This study also contributes to reintroducing States in a study of E&S responsibilities and with an organizational studies lens, thus contributing to CSR and PCSR which focus privileges the study of corporations and call for more studies on States. While one has to note upfront that States responsibility is different when considering States as Members of the World Bank's Board, i.e., MO responsibility, or as individual States responsibility, this study's focus on the World Bank expands the reflection first and foremost on States interaction and responsibilities at the MO level, but also on individual States, as the World Bank essentially defines is responsibility vis-à-vis Borrowing States.

This sub-section will particularly discuss the way MOT contributes to PCSR as it brings light on the absence and presence of States (4.3.1.), show State responsibility may have been taken for granted and should not be taken for granted (4.3.2.), discuss the interrelation between political and corporate dynamic in States governance, thus complementing PCSR studies on the increasing political role of private corporations (4.3.3.), and reflects on responsibility sharing between Western States and emerging States (4.3.4.).

### 4.3.1 Contribution to the debate on the absence and presence of States in PCSR through the use of MOT.

A few articles like Maher (2019) have provided an account of State reminiscence: *“it retains a skeletal and ghostly existence, largely because, for all the changes in emphasis and interests of research, the thing exists and no amount of conceptual restructuring can dissolve it”* (Nettl, 1968, p. 559, quoted by Maher et al., 2019). However, PCSR is based on the idea that States are losing power. As such, numerous calls have pointed to the need to resurrect a focus on the States and further analyse its contemporary organization: *“[Organization Studies] scholars and governance-makers would do well to recognize its importance”* (Nettl, 1968, p. 559). This study contributes to this debate by showing States' multi-layered influence in meta-organizational settings, both as Board members and clients. It also provides for a differentiation of the roles between different States, showing the role of Western States in emerging economies in the promotion of E&S

requirements, in a context where Western States are not under scrutiny for complying with these norms but are under scrutiny for making these norms.

### **4.3.2 Beyond taking State responsibility for granted, through the use of MOT**

One may see that situations of responsibility negotiations happen both at the private and State level, thus raising the question of the distinction between public and private responsibility. As explained below, this study is the occasion to take some perspective from the way the debate on private and public responsibility has been framed in PCSR: while private responsibility is rising, one should not assume that public responsibility has been a given. On the contrary, as mentioned in the literature review, *“the role of states and governments in contemporary processes of governance (...) should become the object of serious scholarly scrutiny”* (Djelic & Sahlin-Andersson, 2006, p. 7). While PCSR does not directly tackle public responsibility, its a priori assumptions are linked to the fact that private responsibility is moving towards State-like political responsibility. Even if the role of IGOs and States may seem more intuitive on E&S issues than the role of private organizations, because they have traditionally been associated more quickly with the role of guarantor of the general interest, this intuition must be deconstructed. In fact, the organizational nature of the World Bank, including banking and meta-organizational characteristics, makes it difficult to define the specific responsibility of the institution vis-à-vis E&S issues.

In particular, MOs conflict shapes States understanding of their own responsibility in different directions. As this study object is an MO, it responds to PCSR calls to better analyze States by further analyzing the contemporary organization of the State, using MOT to describe the details of organizational tensions characterizing intergovernmental organizing.

As stated by MOT, the core paradox of MO is linked to actorhood (Kerwer, 2013, Berkowitz et al., 2022). Bringing the focus on responsibility in MOT is therefore key to better understanding MO paradox, in so far as responsibility is intrinsically tied with questions of agency, as I have shown in this study’s literature review.

The fact that flexibility could be exacerbated by the meta-organizational pressures is particularly explained by MOT, *“decision-making problems can be avoided, of course, by avoiding decisions. The zone in which decisions are made by the meta-organization can be reduced in order to minimize the damaging effect on member autonomy, but the price exacted is the relevance of the meta-organization.”* (Ahrne & Brunsson, 2019). Flexibility is one response to the dilemma between maintaining substantial relevance and member autonomy. Flexibility can be seen as both the cause and consequence of internal conflicts. This is in line with MO’s theory findings that MOs tend to formulate non-binding rules (standards) instead of binding rules: *“Standards are often the only way of reaching decisions about rules.”* (Ahrne & Brunsson, 2016a, p. 11)

This dynamic is framed as organizational hypocrisy by Ahrne & Brunsson (2016a): *“Meta-organizations may become highly competent in deciding on resolutions that look good but imply little action. Hypocrisy becomes a tempting option when the organization encounters conflicting demands (...) hypocrisy becomes the result of internal conflict: The organization satisfies members with diverging interests by acting in accordance with the interest of some members and making statements in accordance with the interest of others.”* (p. 10).

From an MO perspective, it is nonetheless unclear whether flexibility actually implies less action than clearer regulations, given the organization relies on very fragile grounds – the need to satisfy all the organization’s members. From that perspective, one could wonder whether more stringent requirements would actually be feasible. While organizational conflicts stemming from distinct organizational pressures are solved through flexibility, flexibility does not make organizational pressures disappear. On the contrary, it is precisely because organizational pressures are maintained that the framework needs to be flexible. Coping with and meeting organizational pressures conditions the very existence and maintenance of the organization itself, given that these organizational pressures stem from the organization’s structure. Consensus through flexibility is therefore both a maintenance of the organization and a maintenance of associated organizational pressures. As such, it is unclear whether it helps move coordination forward in the context of global challenges, by maintaining global coordination, or whether it exacerbates the risk of organizational inertia.

### 4.3.3 “*Political*” and “*corporate*” dynamic in States global governance

While PCSR renews our understanding of the political dimensions of corporate actions (Scherer & Palazzo, 2011, 2016, Lefebvre, 2021), this study casts a new light on the (non) political dimensions of States actions as well as the sometimes “*corporate*” dynamics of State intervention.

This study confirms lines are becoming more and more blurry between States role and private company’s role, and it is becoming less and less relevant to draw a strict line between economic and political considerations. However, these lines are still drawn in organizations’ mandates, even for organizations made of States. Governmental MOs, in this debate, have a very particular role: they constitute an opportunity to coordinate global action on grand challenges, but MOs like the World Bank are still restricted by their “*apolitical*” mandate, given States retain exclusive political actions, although MOs are themselves constituted by States. From that perspective, governmental MOs are at a very interesting juncture, which should further be investigated in the debate around the reshaping of the lines of roles and responsibility. Organizational paradoxes between politicization and (a)politicization structures OSER negotiations at the global level. The emphasis on the need to retain an apolitical position shows how tackling grand challenges is still thought through managerial and technical lenses and could be explained by the extremely sensitive and conflicting topics exacerbated by the MO structuration of global State action.

This study also demonstrates that States responsibility entails dilemmas that are similar to the ones faced in the corporate world, even though these difficulties have been traditionally associated with private companies. First, by looking at the World Bank from a banking perspective, this study shows how crucial the function of economic objectives is in a State association, and that the balance between banking objectives and E&S objectives may be conflicting even in a State consortium, not because of pressures from the corporate world, but because of internal banking pressures structurally inherent to the organization: as such, if private organizations adopt a political role on E&S issues, as

shown by the PCSR literature, it should also be noted that public political organizations also adopt logics that are usually associated with the banking sector.

In particular, in the context of banking pressures, the rise of competition on ideas, norms and standards, in a world where States would be pressurized to adapt themselves to financial competition, would be “*suspiciously compatible with corporate deregulation and privatization of the public sphere*” (Rhodes & Fleming, 2020, p. 1), which is exactly the criticism done by Rhodes & Fleming to PCSR. However, it should not be a question of forgetting about PCSR but rather nuancing any PCSR enthusiasm about the renewed ambiguities on who shapes global political governance and promoting the need for careful analysis on both renewed corporate and State interventions.

Regulating global governance is not a linear and straightforward process, especially in the context of paradoxes around politicization and banking pressures, combined with the complexity of MO agency. As explained in our literature review, Supiot (2015) presupposes that there is a reciprocal influence between what he understands as the decrease of hard law and, to resist against the relative absence of regulation and restore some regulations, the rise of allegiances on the global value chains between financiers and lenders, lenders and contractors, contractors and sub-contractors, with mechanism of capacity building and control (surveillance of the vassal by the suzerain, support of the vassal by the suzerain and responsibility of the suzerain for the vassal’s actions). However, this study’s data shows that these new monitoring responsibilities can actually be seen as regulations in the making, instead of substitutes to the lack of regulations. This study also nuances the account according to which States are “*last resort guarantees capable of making the general interest and democratic prevail over particular interests as well as financial and religious powers*” (p. 310). Looking at debates between different States (especially between Western States imposing norms on other States and States from the Global South pushing back against certain norms in the name of sovereignty and development history), this study shows that States interests are complex and rife with ambiguities, with arguments that are the object of a narrative that are both an account and an instrumentalization of past injustices and the general interest, in order to serve particular’s States interests.

#### **4.3.4 From Western States responsibility to responsibility sharing in the context of global governance**

This study also contributes to PCSR by showing certain dynamics between OSER and emerging countries. As put by Dann & Riegner (2019), the ESF deliberation process is both the signal of the institutionalization of global politics and the rise of emerging State actors. While most CSR studies tend to traditionally be more focused on developed countries than developing countries (Wang et al., 2016, Ali et al., 2017), this study not only allows for a description of stakes related to CSR in developing countries, but also how responsibility for E&S issues may lead to conflicting perspectives represented at the Board level between Part 1 and Part 2. This study shows how global governmental MOs are a privileged platform to study conflicts arising from the need to coordinate global action on sustainable development while taking into account differences between developed and developing countries, in a particular setting where requirements are formulated by both developed and developing countries at the Board levels but only apply to developing countries as Borrowers of the World Bank. While some World Bank staff may say that development assistance as neocolonialism is an outdated perception from the 80s, many of the implications of this perception are still very important for the World Bank to structure its narrative around responsibility sharing between the World Bank and Borrowers. The debate on capacity building can be seen as reflecting the need (but also injunction) from Part 2 to be supported by Part 1, implying a certain responsibility due not only to historical privilege but also to present superior capacity. However, the debate is rather neutralized by an apolitical discourse around E&S requirements, and ambiguities in the resulting framework do not clarify Part 1 responsibilities vis-à-vis Part 2. This study also shows that notwithstanding the conceptual relevance of the divide between developed and emerging countries to understand differing definitions of OSER, such lenses have to be associated with a detailed understanding of different institutional and organizational positions, interests, and pressures, which are sometimes cross-boarders, and may for example explain the important divides that exist between stakeholders from emerging countries on definitions of OSER (for example between Borrowing States and affected communities of these States), as well as the shared transnational approaches between

specific actors in developed and specific actors in developing countries, going beyond or nuancing the divide between developed and emerging countries.



## 4.4 OSER beyond the Management literature

Beyond contribution to CSR, PCSR and MOT, this study also contributes to emerging studies in social science bringing a social science lens onto OSER.

This sub-section focuses on how this study contributes to complementing philosophy and law with a social science lens on OSER (4.4.1.), before specifically looking at how it may contribute to the philosophical reflection on responsibility expansion through a social science lens, which may also inform and further refine the social science lens onto OSER (4.4.2.).

### 4.4.1 Complementing philosophy and law with a social science lens onto OSER

While responsibility is a more traditional object for philosophy and law, one of the main contributions of this study is to deepen the conceptual roots of the need to conceptualize responsibility as a social construct in organizations. It further explains the relevance of social science studies on responsibility as the object of debates in organizations, building on philosophy and law, but also connecting the philosophical and legal debates to concrete organizational situations, in line with Ricoeur (1994)'s suggestion to perceive responsibility from the *phronesis* angle.

The literature review has shown that there is a lack of actual theorizing on responsibility in the social sciences. For example, in CSR, most theories are transversal to different topics – very useful to understand key aspects of responsibility (drivers of responsibility, performance factors of responsibility). I argue that this does not open the door to understand the content of responsibility and that the concept of responsibility merits its own theorizing exercise, given the deep conceptual challenges demonstrated by Ricoeur (1994). I also argue that this theorizing cannot be limited to legal or philosophical lens once responsibility is understood as an ever-negotiated construct in concrete organizational settings.

As described above when describing this study's contribution to CSR, this study therefore contributes to better theorizing on responsibility itself, by better understanding concep-

tual challenges linked to responsibility, proposing a definitional framework for responsibility that can be tested in different fields, testing this definition on a case to better dissect the controversies on responsibility and understand different conceptions of responsibility at stake in the debate. In this sub-section, I emphasize that this contribution is key not only for CSR debates but also in social sciences in general, to debunk the traditional understanding that this concept was the exclusive and reserved domain of philosophy and law, and provides tools to do so.

First, it brings the focus on leverage to analyze responsibility debates. As the possibility of responsibility is so tied to agency, one crucial question in OSER negotiations relates to discussions around the actual powers of actors. This is particularly illustrated through the question of leverage at the World Bank. Who has the leverage on who and what are the factors influencing one's leverage? From this perspective, leverage is at the center and there may be two faces of the same responsibility coin, power and liability, but while power is an organizational opportunity, liability is more perceived as an organizational risk, including financial and legal risks.

The focus on leverage also involves a practical contribution, showing the different types of leverage each actor may work with to influence the power play. First, actors may choose to clarify their leverage. For example, when addressing the question of their responsibility, MDBs may think about structuring their remedy toolkit, that is to say the criteria for loan cancellation, suspension, refund. Different actors may have different leverage: for example, being an employer and an investor does not imply the same type of leverage. In practice, leverage tools and their nuance have to be further defined, whether from the point of view of "*responsible*" organizations, or CSOs advocating for the need to expand the organization's responsibility. Second, actors may choose to try and have an influence on their environment. For example, World Bank staff may push for more coordination among MDBs to increase collective MDBs leverage.

Furthermore, complementing a focus on leverage, this study definitional framework can also be relevant beyond organizational studies.

This study's definitional framework of responsibility is composed of a set of questions which are meant to remain open to different organizational settings while not losing the substance of conceptual debates on responsibility. While the set of questions supports

these two goals (openness and substance), one has to note that practical discussions on responsibility definition are still emerging and may also always be somewhat looser than technical discussions on responsibility, due to the fact that discussions are held by practitioners. In particular, the debate on some of these questions (who is responsible?, for what?, to whom?, on the basis of which standard?) is not resolved but more advanced than the debate on other questions on the connection to the impact (distinction between forward-looking responsibility to prevent/stimulate impacts, backward-looking responsibility for impacts, including intentional, unintentional, direct, indirect impacts, forward-looking responsibility to repair impacts that were caused by the responsible party or forward-looking responsibility to compensate for impacts that were not caused by the responsible party). These questions nonetheless remain useful tools to analyze responsibility definition, as well as discern and categorize associated arguments, in order to be able to navigate in the wide range of debates around responsibility in concrete organizations.

#### **4.4.2 Contribution to the philosophical reflection on responsibility expansion through a social science lens onto OSER**

Ricoeur (1994)'s criticism of the widening of the concept of responsibility certainly resonates in an analysis of the World Bank negotiation on responsibility: *“The expansion of space and especially the lengthening over time of the scope of responsibility can have an opposite effect, to the extent that the subject of responsibility becomes more and more elusive as it is multiplied and diluted.”* (p. 48). At the World Bank, the responsibility domain has certainly expanded as coverage of issues as widened. This importance of the concept of prevention particularly mirrors that expansion. This may be necessary, in the context of increased global coordination on interconnected global risks and impacts. However, this also further complicates the conversation on responsibility. One can suspect that this movement of both responsibility expansion and complication is the new context in which one has to navigate: global challenges automatically raise the questions of global actors in a complex global value chain and their sharing of responsibility. The World Bank, in that respect, as an MO, is in a privileged but difficult position.

Echoing the idea that responsibility expands, an analysis of the World Bank OSER debates also brings new light to this reflection on responsibility expansion.

Responsibility expansion can also be interpreted as a verbal agreement (Chalmers, 2011) that is both challenging and somewhat necessary, at least to a certain extent. At the World Bank, while there is some clarity as to a distinction between a client responsibility to implement and a World Bank responsibility to supervise, a lot is still open to questions and debates. This is reflected through the fact that key concepts seem to be verbal agreements: while most stakeholders agree that “*development*” is an important responsibility of the World Bank, they tend to disagree on what “*development*” actually is. While most stakeholders tend to agree that the World Bank has key responsibilities, they tend to disagree on what these key responsibilities are. However, beyond verbal agreements’ perverse effects, verbal agreements also have an important advantage if they act as organizational stability gate keepers, especially in extremely polarized associations like MOs.

Forward-looking responsibility, which rising importance is the signal of responsibility expansion, is both more complicated and simpler for the World Bank than backward-looking responsibility. More complicated, because forward-looking responsibility, as pointed out by Ricoeur (1994), can be virtually anything. Simpler, as risk prevention may be seen as actually easier to tackle for an organization than responsibility to repair. From that second perspective, focusing on prevention is both a way to avoid adverse impacts in the first place and to divert the focus away from compensation. In the consultation, we have seen that both forward-looking responsibility and compensation are key topics. However, when it comes to Inspection Panel cases, the Inspection Panel can be seen as “*having more institutional impacts than project impacts,*” which is interpreted as a key weakness by CSOs and Inspection Panel staff (Interview). In other words, in a lot of cases, World Bank Management responses focus on additional institutional reform and guidance to further prevent impact, rather than compensation for past impacts. This study underlines that both poles of responsibility (forward-prevention, backward/forward-repair) have different objectives and would need to be held together to define responsibility. They certainly “*overlap and reinforce each other*” (Ricoeur, 1994, p. 48), but on the condition that one is not substituted for the other. For example, causal backward-looking responsibility/forward-looking responsibility to repair is intrinsically tied to forward-looking responsibility to prevent to the extent that the connection to the impact may be interpreted as depending on the way an organization was successful in preventing risks or not:

this really depends on how prevention is defined. As explained, if an organization does not prevent a risk that could have been “*reasonably*” prevented (not fulfilling its forward-looking responsibility to prevent), and such risks materialize as an adverse impact, the organization could be found to be responsible for using leverage to repair the impact (being held accountable for a backward-looking responsibility and having a forward-looking responsibility to repair).

While non-causal forward-looking responsibility to compensate for the impact can be seen as expanding responsibility in an indefinite manner, similar to forward-looking responsibility to prevent, if not more so, the results also show that non-causal responsibility to remedy also emerges as a point of possible discussion, even if not the main focus of the discussion. When looking at the support of Western countries on developing countries, one can both analyze it as a causal backward-looking responsibility/forward-looking responsibility to repair based on the idea that Western countries exploited and benefited from developing countries, or as a forward-looking responsibility to compensate for impacts that were not caused by Western countries, based on the idea that Western countries have more capacity, no matter the causal link between this capacity and developing countries’ relatively lower capacity.

This study has contributed to CSR, PCSR and MO. I have also shown that going beyond the Management literature, this study also represents a contribution in the social sciences on theorizing of responsibility, which may in turn contribute to the debate on responsibility in disciplines which have traditionally been concerned with the topic, i.e., law and philosophy, by connecting the philosophical and legal debates to concrete organizational situations, in line with Ricoeur (1994)’s suggestion to look at responsibility from the phronesis angle. In the next sub-section, I discuss this study’s limitations and potential future research that could help further develop the reflection on OSER definition.

## 4.5 Limitations of this research and future studies

This study entails several limitations which also opens the door for future studies.

This sub-section will particularly describe the inherent limitations linked to single case studies, and the limits linked to the material collected and related implications for the understanding of stakeholders' views during the ESF consultation. Furthermore, it will focus on limitations due to the fact that some aspects of OSER were out of the scope of this study: the object of this study is not policy effectiveness but rather policy debates, future studies could also expand along the global value chains and to different types of MOs and other organizational structures, future studies could also further analyze the link between OSER and individual responsibility. This sub-section will develop the way the OSER debate is framed in the context of E&S risk management as opposed to taking into account E&S dimensions of projects during the development and choice of project, and suggest that future studies look at OSER from a project choice perspective, and how project choice and project risk management are linked. Finally, this study will note the current debate on *Jam v. IFC*, and that future studies should look at the implication of this debate for OSER.

### *The inherent limits of single case studies.*

As it is grounded on a case and only covers one case, this implies limitations to the possibility to statistically generalize the results. However, this study was the opportunity to come up with theoretical propositions that can be considered as analytical generalization: models of responsibility, the types and ways organizational pressures influence OSER negotiations, possible results of OSER negotiations and associated challenges. Furthermore, there are good indications that these results could be explored in other cases, especially IGOs and MOs, and used to specify similarities and differences depending on the type of IGOs/MOs at hand. One also has to note that this case is a very particular case of negotiation, as it is somewhat controlled by the World Bank and future studies can explore and compare different types of OSER negotiations, building for example on Schettler (2020) who compares the ESF consultation with the Inspection Panel creation. While this research is also a first step to reflect on a typology of OSER negotiations, future research could further explore this typology and focus on whether responsibility negotiations have

different effect on responsibility definitions depending on the conditions in which they are done (for example, when project based or unanticipated by the organization at hand). While Schettler (2020) compares the World Bank ESF negotiation to the Narmada case which led to the creation of the World Bank Inspection, it did not necessarily focus on responsibility, and rather on human rights, but future research focused on responsibility negotiation could also draw on this study to expand the investigation on OSER negotiations in different contexts, for example building on the proposed classification of OSER negotiation situations in 4.1.3.

### ***Stakeholders' perspectives and power asymmetry.***

The data collected and analyzed was also quite controlled by the World Bank: most interviews were done with World Bank staff, and the consultation archive was created by World Bank staff. This is somewhat nuanced by interviews also held with CSOs, as well as the analysis of CSOs submission, accounting for CSOs' perspectives on the negotiations. Also, one has to note that consultation archives being public, it is likely the World Bank would not have been able to completely misrepresent what was said during the meetings with various stakeholders. Although there were some criticisms that some CSOs perspectives were misrepresented, this is not a pattern of criticism I have consistently noted in my data. However, direct project-affected people perspectives remain somewhat absent from the data, particularly as their perspective is more difficult to collect. This relative absence of communities' direct views does not restore the balance in the context of the structural power asymmetry between organizations like the World Bank and project-affected people or beneficiaries. I argue this does not completely undermine the findings as the data collected already allows for the nuanced description of various distinct and conflicting perspectives of internal and external World Bank stakeholders. For a perspective more focused on project-affected people perspective onto World Bank Group projects, one can consult the PhD of Roussey (2019), which delves into the power imbalances as they are experienced by project-affected people in an IFC project. While Roussey shows how institutions like the World Bank Group may be seen as "*fabricating*" the community's "*powerlessness*," this study also shows how community representatives and CSOs would call on the World Bank to support them vis-à-vis national governments, thus complicating this narrative. However, Roussey still offers a different and rich per-

spective from the point of view of the affected community. Future studies could focus on OSER by considering more systematically community perspectives.

While this study has focused on comparing distinct stakeholders' perception, it has also pointed out that each stakeholder cannot that easily be reduced to a homogeneous single voice, and may even entail controversies in certain issues, for example civil society perception of child labor. However, it did not dive into the details of each stakeholders' voice heterogeneity. Future studies could focus on the distinction of perceptions within governments, within CSOs, within project affected communities to further account for the complexity of voices when looking at global challenges, roles and responsibilities.

### ***Policy effectiveness.***

Roussey's study also points to the need to study the effectiveness of E&S standards as they are applied on projects. This study focuses on debate at the policy level, and was undertaken at a time when it was premature to study the ESF results, given the ESF was launched at the same time as this study, in 2018. Future studies could focus on the effectiveness of the ESF norms, looking at specific projects and how flexibility may be experienced in ESF projects, what types of dilemmas each project may entail for responsibility delineation and how individual staff may take decisions on responsibility dilemmas. While frustration in anticipation of the ESF or after having implemented the ESF for one year was expressed by some World Bank staff during interviews, a further deep dive into the way individuals are experiencing the enhancement of judgment-based decision making in the ESF framework would be interesting.

### ***Global value chain.***

This study focuses on the World Bank responsibility, not Borrowers' or contractors' responsibility, but I have noted that questions related to responsibility definition are relevant all along the value chain. This study shows that dilemmas between Lenders and Borrowers can also be compared to dilemmas between Borrowers and contractors: there is some symmetry between World Bank responsibility vis-à-vis Borrowers, Borrowers' responsibility vis-à-vis contractors and contractors vis-à-vis sub-contractors. However, future studies could more systematically study other links of the global value chain and more systematically compare different links in the global value chain and whether they



raise the same questions on responsibility. From that perspective, MO is a limited theory and should be further complemented by global value chain perspectives, including the perspectives of external actors like CSOs. While MOT paves the way for better conceptualization of the power play at the heart of the World Bank, it stands as a fertile but certainly not comprehensive basis to analyze the shaping of IGOs responsibility. For example, it does not provide analytical tools to understand the role of actors further down the project value chain: the sub-contractors, CSOs, security support and project-affected people are not part of the MO, although they may have project-based contracts with the MO. To analyze the dynamics between the MOs and actors punctually related to the MO, there is a need to complement MOT with another theory. The combination of MOT and global value chain (e.g., Carmagnac & Carbone, 2019) is an interesting way to bridge this gap. Research avenues include further exploiting this theoretical combination and exploring other theories to fruitfully complement MOT in this respect.

### *Different MOs and other organizational structures*

This study focuses on an MO with both typical but also specific characteristics: the World Bank. One of the World Bank's distinctive trait as an MO is its considerable financial power (implying particularly sensitive financial and political debates). Future research could study whether similar challenges can be found in MO which do not lend money. Many MOs are dedicated to governance and advisory work, and future research could explore whether banking MOs have additional challenges compared to MOs that are mostly dedicated to governance and advisory and less to the provision of financial and economic services. This study also tends to show that one major difficulty is linked to the fact that clients are also MO members, in line with Berkowitz & Bor (2018)'s finding that MOs that focus on providing services tend to be highly dependent on their members, who will act as clients. Further comparative work could focus on whether MOs services are more difficult to conduct when dealing with MO members which include clients, contrasting with MOs where no members are a client.

From an organizational theory perspective, meta-organizational theory expands the theoretical perspective beyond traditional organizations. While MO is one new organizational form, other collective forms are also relevant to study responsibility negotiations:

networks and other inter-organizational forms, markets, social movements which are in between spontaneous and decided and could not be viewed as traditional organizations.

### ***From organizational responsibilities to individual responsibilities***

In terms of units of analysis, one could go further in studying the World Bank responsibility to tie organizational responsibility to individual responsibilities within the World Bank. The present study acknowledges that this would be both relevant and interesting as the way World Bank responsibility is linked internally to individuals is both a grey area of current institutional thinking on organizational responsibility and worth organizational research interest. Indeed, this work recognizes that the World Bank responsibility is also shaped by World Bank Management and staff organigram, the way projects are prepared, done, etc., internally at the World Bank, thus pointing to individual responsibility when considering organizational responsibility. While the organization is an entity that can be recognized as responsible, and this responsibility may be analyzed as distinct from individual responsibility, both can be analytically linked. Indeed, the World Bank is recognized as responsible for its supervision role and individuals within the World Bank are performing the tasks of advising and supervising projects, although this can be the result of a team, or the result of a whole hierarchical chain. The 2010 IEG evaluation on Safeguards mentions that key challenges are linked to World Bank Management internal organizational structure: *“the delegation of responsibility for Safeguards supervision to sector management units has contributed to supervision deficiencies.”* (p. xviii). IEG recommendations also cover these aspects: *“The World Bank should: Assign responsibility and budget for Safeguards oversight and reporting to environmental and social units in each operational Region—in line with IFC practice—in place of the delegation of Safeguards processing and supervision to sector management units, Introduce a certification program to expand the pool of staff qualified to undertake social and environmental preparation and supervision while ensuring quality and consistency, and provide orientation training on environmental and social sustainability to all task team leaders.”* (p. xxii). However, while this PhD recognizes the link between internal organizational dynamics and OSER, this study rather focuses on the World Bank’s responsibilities as an organization and does not delve into the World Bank’s pool of resources as well as World Bank staff reporting responsibilities in detail. However, the door is open for such reflection as

the World Bank ESF was approved before a new Accountability and Decision Making (ADM) framework was, which could be the object of further study. In 2018, Jim Kim, who was at the time President of the World Bank, mentioned in a public conference that as the President of the World Bank, he was the ultimate responsible party and frontline of accountability. In practice, one could study whether the responsibility chain always reflects these kinds of understandings, looking for example at how Inspection Panel cases had an impact on World Bank or Borrower staff involved in projects which have further become the object of Inspection Panel cases.

### ***E&S project choices and E&S risk management***

There are several ways to look at the World Bank OSER, although all can be looked at through the definitional framework proposed in this thesis.

One way is to look at the World Bank OSER on the project strategic choices: whether to finance a hydropower plant as opposed to a school project, whether to finance a hospital expansion as opposed to a road project. Certainly, not all projects can be done and there are strategic choices that can be made when choosing to finance one project instead of another. These strategic choices are guided by a series of conversations, including with Government representatives, on countries' priorities.

The other way to look at the World Bank OSER is to look at responsibility in terms of E&S risk management. For example, whether the project has risks in terms of involuntary resettlement, impact on indigenous peoples, risk and safety impacts.

One has to understand that these two perspectives are essentially different, and that E&S risk management can actually be agnostic to strategic project choices: whether it is assessing a hydropower plant project, school project, hospital project, road project, it can look at whether people will need to be resettled and compensated, whether the project generates pollution or not, whether the project manages waste or not etc. Institutionally, these perspectives are also separated.

Accountability is not the same depending on whether someone is focused on risk management or project choices. The Inspection Panel essentially intervenes on whether the World Bank was compliant with its E&S policies. Therefore, the accountability process is focused on project preparation and implementation, not project choices, although

project-affected people do claim that some projects are “*wrong*” not because of the inadequate management of E&S impacts, but because of the structural inadequacy of the project goal. The independent evaluation unit can be seen as more focused on project goals, but it is not an accountability system that would be directly linked to complaints on the matter.

Teams that are routinely working on project choices intervene at the Country Assistance Framework level, not the Safeguards level, and when projects are decided, before the project concept note is even presented to the Board. E&S specialists’ role mainly has to do with E&S risk management, even though they mentioned the project choices perspective in interviews: “*We had a meeting yesterday and we were discussing about this. How we can have projects more focused on environmental and social aspects. When we look at the components of the projects, we didn’t have many components on technical assistance. None of the components drawn on the project design are focused on E&S aspects. How we can introduce environmental aspects on the project. This unfortunately, I don’t think we are there yet as a team. We need to sell this to the Country Management Unit. It goes back on who is leading us. If we don’t have leader that really sees this issue as something important, then we have a lost fight.*” (Interview, World Bank staff). Another social specialist indicated: “*I have been involved in [one] Country Partnership Framework discussion.*” This interviewee had a more nuanced perspective in terms of the integration of social perspectives into CPF discussions: “*From the social standpoint, I think there is a fairly good definition, but a lot of focus of the program has been on human development. In that respect, the priorities are aligned to work very much with these sectors, not so much with natural resources. We had only one project in energy. A lot of the focus has been in area like education, health, water, not so much on natural resources. When you work on those sectors, automatically, there is a strong social component. So, it makes our job easier but it does not mean that they are thinking a lot about social Safeguards. Those are slightly different issues. They are thinking about gender, vulnerable population. Those projects still have more affinity with what we do.*” When interviewing an ex-staff working on strategic documents, the distinction between Safeguards and project choices was confirmed: “*Safeguards are a project-level issue applied to each individual operation. The choice of operation or sector that the Bank supports is not driven by safeguard concerns; Safeguards come into play during the preparation and implementation*

*of the project. Upstream strategic documents don't in and of themselves need to address Safeguards as such, other than to indicate that Safeguards and other fiduciary policies (procurement, legal) are integral to the Bank's relationship with the country. Strategic documents should (and maybe sometimes they do) identify and analyze social and environmental issues affecting the country and the sectors"* (Interview, ex-World Bank Staff working on country strategic documents).

At the same time, one interviewee noted that World Bank strategies are quite flexible as well: *"perhaps there's a risk to overstate the immutability of strategic documents. Yes, the Bank produces Country Partnership Frameworks at regular intervals, which outline the strategic goals, analytical work program and planned operational investments over the planned 3-5 year period. But none of this is set in stone. You cannot reliably say that the investment program outlined in Year 0 will be the one that has been faithfully implemented in Year 5. Circumstances change (all the time), priorities change, staffing changes - I used to make the case that the Bank often did many transport projects not so much because there was great demand from countries (though there was, of course) but because the Bank had the supply to do this, because the Bank was full of transport engineers who needed to be productively deployed."* (Interviews, ex-World Bank Staff working on country strategic documents).

Because this study was focused on the ESF, it mainly studied responsibility on E&S issues from a risk-management perspective, not from a project choice lens. Nonetheless, follow up interviews were used to deepen our understanding of this distinction and this study's responsibility definitional framework is broad enough that it can also apply to project choices lens, even though the question of project choices may be harder to tackle institutionally as it is harder to debate it as a technical issue, given it is more obviously related to the necessary political responses to *"what is good development."* Future studies can further deepen the distinction and interrelation between both perspectives, and the contrasting or converging implications they may both have on OSER.

### ***Jam v. IFC and potential implications for the World Bank***

One has to mention that there was further development during this PhD on the question of MDBs' responsibility, due to the Jam v. IFC case. Jam v. IFC is a case which was initiated by fishing and farming communities in the context of the Tata Mundra

project, a coal-fired power plant in India. Allegations included that the plant was affecting communities' health and safety and livelihoods through pollution. The outcome of this trial is that the US Supreme Court decided IFC did not have absolute immunity as an International Organization, as its immunity the IOIA affords the same immunity to IOs and foreign governments, and foreign government's immunity has evolved since 1945 and now comprises exceptions (*Jam v. Int'l Fin. Corp.*, No17-1011, 2019). The direct consequence of this conclusion is that the IFC, but also other MDBs, can now in theory be sued in US court. As a result, IFC launched an accountability review, including a review of its Accountability Mechanism and other operational processes. The Review confirms remaining ambiguities as to IFC's roles and responsibilities: *"The Review Team found that some IFC/MIGA staff believe that it is the sole responsibility of IFC/MIGA clients to implement E&S measures, to remedy harm, and to interact with affected people, including those who filed complaints. Other IFC/MIGA staff see value in engaging directly with clients and with affected people to understand concerns, help the client address them, and demonstrate IFC/MIGA commitment to meet their E&S responsibilities."* The Review flagged the need to further clarify the IFC/MIGA's OSER: *"IFC/MIGA need to embrace fully and without equivocation their responsibility to engage with clients and affected people to advance effective responses to legitimate concerns, while respecting the distinction between IFC/MIGA's role as investor/guarantor and the client's role as implementer."* This Review especially draws on the United Nations Guiding Principles to suggest new foundations to clarify the World Bank's OSER, which promotes a framework where one can differentiate responsibilities when a party is *"linked"* to the impact, *"contributing"* to the impact or *"causing"* the impact. The Review also draws on the DBA, which states that a bank may contribute to the impact by *"incentivizing"* or *"facilitating"* action or inaction by a client that leads to the impact. While this study focuses on the World Bank ESF, and does not focus on this development, as the research project was developed before the External Review was concluded, it is important to flag this context as this may have further implications on MDBs like the World Bank, and on the way MDBs OSER is interpreted and implemented.

This evolution shows that, in the context of increasingly complex global challenges and organizational interactions, the question of OSER definition for each organizational actor, and OSER distribution along the global value chains, becomes more and more pressing.

Despite the difficulty and wonder OSER definition can be associated with, sometimes for structural organizational reasons, the context for the negotiation and definition of OSER is ever evolving and remains a necessary and key research topic. As such, the door is open to building on this study's contributions and discussions' suggestions for future studies, taking into account the ever-evolving characteristics of the OSER negotiation context, processes and varying proposed definitions.

## 4.6 Synthesis

In this Chapter, I have shown how this case study contributes to CSR, PCSR and MOT debates on OSER definition.

First, this study complexifies our understanding of OSER negotiation process, by nuancing the way diverse stakeholders may be opposed or allied in the context of sensitive negotiations on OSER. In particular, it shows how the analysis of E&S issues has to go beyond a binary perspective which distinguishes shareholders and non-shareholders' points of view, especially in a development organization which is organized as an MO. I also show how both arguments and power dynamics are revealed in the context of OSER negotiation, arguing that arguments are necessary in the World Bank realm, and can intriguingly be considered both as ineffective and instrumental in the context of the power play at the World Bank. This contributes to the CSR debate on the relevance of deliberative frameworks like that of Habermas. This study also shows that several OSER definition situations can be defined, and that the ESF consultation is just one of them, thus opening the floor for future studies on the matter. Indeed, the ESF can be characterized as a policy based institutionalized discussion, while others could be project based and/or not institutionalized, for example when it is related to an unexpected scandal on a specific topic, even though the discussions on scandals can then be progressively institutionalized as they move forward.

Second, this study contributes to further defining core definitional debates on OSER and how distinct OSER models can reflect these debates. Furthermore, in the grand machinery of institutional decisions and myriads of organizations intervening on complex and global chains, this study shows the underlying organizational mechanism for relatively (un)defined OSER in the context of meta-organizational governance, and the resulting resurgence of the individual in OSER decision-making.

Third, this study responds to the call to further analyze State responsibility, using MOT, and contributes to further describing States' role in contemporary global governance, including by taking into account the distinction between developed and emerging economies. In particular, it shows the role Western States may play, depending on the power play at the Board level, on the norms of developing countries, in a context where they are not un-



der scrutiny for applying the norms they promote. It also shows that States responsibility on E&S topics should not be taken for granted, and that it can even be analyzed as at least as complex as corporate OSER, especially as “*political*” and “*corporate*” dynamics are intertwined. It is not only that corporations are gaining more political power and assuming more political responsibilities as analyzed by PCSR, it is also that States can react as corporations, depending on the way they organize (in this case, as a bank and an MO, reacting to the competition of sources of finance).

Finally, this study overall develops OSER theorizing in the social sciences, contributing to the general debate on responsibility. Given the wide variety of viewpoints shown in the results, I argue that responsibility expansion can be interpreted as reflecting both the rise of new challenges requiring to expand the responsibility domain and a verbal agreement between different stakeholders. While the realm of responsibility seems ever-expanding, thus complicating OSER definition, the analytic distinction between forward-looking responsibility to prevent, backward-responsibility/forward-looking responsibility to repair, and forward-looking responsibility to compensate for impacts that were not caused by the responsible party is instrumental to better understand the current dynamic of OSER definition. The different implications of and link between these categories are important: whereas Ricoeur (1994) argues that the concept of prevention complicates responsibility, I discuss how forward-looking responsibility may be easier to tackle from a practical organizational perspective, as prevention is often preferred to compensation. However, I also note that forward-looking responsibility to prevent and backward-looking responsibility/forward-looking responsibility to repair can be seen as linked, in so far as a breach of forward-looking responsibility to prevent resulting in an impact may lead to backward-looking responsibility/forward-looking responsibility to repair. Finally, I also note that non-causal responsibility poses similar conceptual challenges in terms of responsibility expansion but also constitutes a relevant analytical category to understand today’s debate on responsibility. Using these instrumental philosophical categories to look at OSER definition under a social lens as an ever-negotiated constructs opens the floor to both building on traditional lens on responsibility definition and breaking from the confinement of responsibility studies to these legal and philosophical lenses.

Although this study contains certain the limitations, described in the discussion chapter, it therefore also contains key contributions and paves the way for future important studies to complement and expand on these results, in order to further deepen our understanding of OSER definition.



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## RÉSUMÉ

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Cette thèse explore la manière dont la Responsabilité Environnementale et Sociale Organisationnelle (RESO) est définie dans le cadre des défis mondiaux et chaînes organisationnelles de plus en plus complexes et imbriquées. Alors que la philosophie et le droit ont traditionnellement été des domaines privilégiés pour étudier la responsabilité, cette thèse s'appuie sur ces disciplines tout en s'en démarquant pour approfondir la théorisation de la RESO dans les sciences sociales. Elle utilise le cas concret de la consultation du Cadre Environnemental et Social de la Banque mondiale, menée entre 2012 et 2016, pour décrire (i) les différentes pressions organisationnelles en jeu à la Banque mondiale, (ii) les dynamiques de pouvoir et d'arguments utilisés par différentes parties prenantes au sujet de la définition de la RESO, ainsi que (iii) la manière dont les pressions organisationnelles façonnent et sont façonnées par les compromis faits au sujet de la définition de la RESO.

## MOTS CLÉS

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Responsabilité, Banque mondiale, Cadre Environnemental et Social, Développement Durable, Organisations Internationales, Méta-organisations

## ABSTRACT

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This study explores how Organizational Social and Environmental Responsibility (OSER) is defined in the face of global challenges and increasingly complex and raveled organizational chains. While responsibility has been traditionally analyzed through philosophy and law, this study builds on and breaks from these lenses to further theorize OSER in the social sciences. It uses the concrete case of the 2012-2016 World Bank Environmental and Social Framework consultation, in order to describe (i) different organizational pressures at play at the World Bank, (ii) the arguments and power dynamics at the core of stakeholders' divides on OSER definition, and (iii) how organizational pressures shape and are shaped by the resulting compromises on OSER definition.

## KEYWORDS

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Responsibility, World Bank, Environmental and Social Framework, Sustainable Development, International Organizations, Meta-organizations