

Roxanna Altholz:

Hello and welcome to Borderlines, a show about global problems in a world fragmented by national borders. This is part one in a four-part series of special Borderline episodes that feature Berkeley Law guest hosts Professor Laurel E. Fletcher, and myself, Professor Roxanna Altholz. We shine a spotlight on human rights champions, all guest speakers in our 2023 Human Rights Practice Workshop, where leading practitioners working in a variety of institutional settings, share their struggles against corruption and impunity, the relationship between law and social justice and the future of human rights movements.

So Paul, I thought we could start with you just introducing yourself. One of the joys about speaking with you today is that you're a Berkeley Law grad, so if you wouldn't mind introducing yourself, that would be great.

Paul Goodwin:

Absolutely, and thanks for having me. So my name is Paul Goodwin and I graduated from Berkeley Law in 2013 with a JD. So it's been about 10 years now since law school, coming up on my anniversary 10 years. And I am the head of the Social and Environmental Compliance Unit, which is an office within the United Nations Development Programme, and we are what is referred to as an independent accountability mechanism.

Roxanna Altholz:

Great. That's a mouthful. So could you say a little more about what SECU does?

Paul Goodwin:

Yeah, absolutely. So SECU is an independent office. It's located within the Independent Office of Audit and Investigations, which is sort of like an internal oversight office of UNDP. And we are tasked with ensuring that the organization, UNDP, is following its own social and environmental standards in the projects that it does around the world. So as you know, the UNDP has a very large budget, six or seven billion a year that it spends in 180 countries around the world, sort of any country that's not the Global North. We'll have UNDP projects in the country to support environmental conservation, democratic rights, gender equality projects, sometimes water pollution.

All sorts of projects that UNDP does to promote development, to promote livelihoods, and promote sustainable environmental policies and projects. Sometimes those projects go wrong. Sometimes the projects are either taking place in very difficult contexts or the project implementers, the project team on the ground are not able to fully take stock of the risks that a project might generate, whether it's impacting local communities or the environment, indigenous people, marginalized communities, whoever it might be -- and either through non-capacity constraints, sometimes professional negligence, sometimes oversight, sometimes poor design or impossible contexts that they have to operate in -- the projects actually harm communities, and that's where we come in. So we can receive complaints from anyone around the world who might be negatively impacted by a UNDP supported project or activity, and they can trigger our mechanism to investigate our own organization, UNDP, for how and whether the social and environmental standards aren't being followed. And we go to the country, we interview the complainants who are oftentimes groups of marginalized communities, as well as government actors, the UNDP staff themselves, other UN experts, other academic experts, any stakeholder that we think will help us gain an understanding of what's going on on the ground and determine how the project was designed, how it's impacting people, whether it was designed properly or in compliance

with the standards. Then, we go home and we write a report that we make public, outlining all of our findings about whether these projects are or are not complying with very good social and environmental standards. The standards are very strong. It's about the organization following those standards, that's the crux of the issue.

Roxanna Altholz:

The heart of our conversation today is really accountability. What kind of accountability mechanisms exist within these international development institutions? So I want to come back to SECU, but I want to provide a little bit of context and to provide that context, it will take us back really to 1993 because it's the year that the inspection panels is established for the World Bank. And the World Bank is this international institution that was established to aid in the reconstruction of war torn Europe. And since World War II, since 1944 when it was established, it's given billions and billions to governments and also private companies to finance the development of infrastructure, to create jobs, to provide access to food, health, education, electricity in the world's poorest countries.

Some of these bank financed projects, as you referred to, however, not only failed to benefit the poor, they forcibly displaced people, they destroyed people's livelihoods and they irreparably damaged the environment. So in 1993, the World Bank establishes the inspection panel, which is the first independent accountability mechanism to address the complaints of private citizens who were being harmed by international development projects. Now today, every major international financial and development institution has an independent accountability mechanism. There's nearly 30, I understand. So I wanted you to talk about what these accountability mechanisms, you already started to a little bit with SECU, but what these accountability mechanisms are. What are their legal and administrative characteristics?

Paul Goodwin:

As you said, the inspection panel was formed in response to pressure from Western countries on the World Bank's board of directors. And that pressure bubbled up through the democratic processes within those Western countries essentially saying, "The World Bank cannot just sort of operate with total immunity and impunity around the world," because as you know, the World Bank and UN agencies enjoy immunity. And not only do they enjoy immunity in their operations, which is essential for them to be able to operate in these very risky situations that they're sort of putting themselves into, but also their incentives ... the leaderships look up.

They look up to the boards of directors. They look up to the donor countries. They look up to the member states. That's where their incentives lie is to look up. And so there is this need for them to look down, for them to look at communities, and for them to hear from communities who are impacted by projects, to have some sort of funnel system, an amplification system for communities that are negatively impacted by these projects, to be able to bring their grievance somewhere in a culturally appropriate, accessible, predictable, transparent, and effective manner, where it will then provide them a way to object to how projects are impacting them. It's important to realize though, that these mechanisms do not have judicial authority.

They don't issue decrees that are then sort of automatically binding on their parent institutions. They are not a court of law. They do not have punitive powers for individual wrongdoing. They're administrative review bodies, they're sort of quasi-judicial in a sense, and they receive these complaints and process them, and then they make recommendations to the senior leadership of the parent organization that they're a part of, to rectify the harms, to prevent harms from happening in the future.

And then, to provide redress to affected communities, which as you can imagine is sort of the crux of a lot of controversy when it comes to these mechanisms. What does redress look like?

What types of redress are on the table and not on the table? What is the parent institution willing to accept as recommendations for redress? Keeping in mind that at the end of the day, they do sort of have the power to approve the mandate of these accountability mechanisms because they created them themselves and they put them in an independent structure, but at the end of the day, it's still the parent institution that has sort of control over these mechanisms.

Roxanna Altholz:

They're housed within.

Paul Goodwin:

They're housed within. So the staff of the mechanisms are, their salaries come from the World Bank, from the UN, their reporting structure ultimately is through the parent institution. It bypasses a lot of the senior management. And a hallmark characteristic of an accountability mechanism is that its reporting line goes directly to the highest level of the organization, bypassing the project people, but they're still in the structure, and that's a limitation of their independence. They can't be fully independent.

Roxanna Altholz:

So before we get to talking a little bit about the structural limitations or deficiency, I wanted to stay a little bit with the need. So you mentioned that the international development institutions or financial institutions have immunity. Can you say more about that? What is the scope and nature of the immunity? Then, I wanted you to talk also about whether, if that's also a characteristic of national development institutions, because while the World Bank continues to be a really important player, there are national financial institutions that monetarily are emerging as perhaps more important players. So could you talk a little bit about what the need is for these types of independent accountability mechanisms, vis-a-vis the international financial institutions, but also the national?

Paul Goodwin:

Yeah. Sure. So organizations like the UN and the World Bank have built within their charter immunity for the operations that they do around the world. And the idea behind that was first of all, these organizations are made up of the member states themselves. So in a sense, they are the governments of the nations in which they're operating. I mean, they're more than just the one government, but they're the whole world's governments that are member states. And then secondly, there's this understanding that if you're going to go, for example, to war torn Europe after World War II and try to build a power plant in Poland or whatever, there's going to be a lot of contextual risks that are really, really prohibitive for the private sector to go in and assume.

And the idea was that you want to give immunity to these international organizations so that they are willing to operate in the most difficult circumstances, so that the UN will go into a country that has just emerged from a civil war and will invest in infrastructure or will invest in trying to build democratic institutions of that country, which has no return on investment from a financial perspective. So you want to incentivize these organizations to come in and give them immunity, which means that harms or liabilities that they might otherwise incur in a domestic or national legal context, where you might be

able to bring them to court to sue them, let's say they did something negligently and caused pollution in a river downstream or something.

In this situation, you can't really take them to court in the same way. The idea being that the accountability comes from the member states that they have an incentive to create an accountability structure of an organization that is meant to be helping their own citizens. I mean, that's obviously not how it always works. A ton of damage and harms that can come out of these massive infrastructure projects or development projects. Because of that context and because organizations like the World Bank and other regional development banks were investing billions and billions and billions of dollars into these big infrastructure projects and sometimes unintentionally causing harms to local communities, and we're talking the most marginalized communities in these places -- indigenous people, poor groups within countries that are already the poorest countries in the world, just very, very marginalized groups who don't have access to education, legal support, knowledge about the international world order, any of this -- the idea was that you need to create these mechanisms to provide an avenue for recourse that sort of provides some way for communities to object to the harms that they might be experiencing if you can't take them to court in the country in which they're living. Nevermind the fact that oftentimes the judicial systems of these countries in the first place are not going to be capable of handling any sort of complex litigation or complex dispute between a very, very powerful actor like the World Bank and let's say an indigenous group of 500 people in the rainforest.

It's just not going to work. And then, when it comes to the national ... I think you're referring to bilateral agencies; my understanding is that's very much specific to the legal context of that country and whether that country has sort allowed themselves to be taken to court, and many do. Many do allow people to raise grievances in sort of the donor country's judicial system about the impacts of their bilateral support in another country. So if some European government has financed the construction of some dam in some developing country, and that dam is negligently built, or the plan to evict people, violates people's human rights because of where the water will flood or whatever.

A lot of the times those European countries will make themselves available for judicial process in those European judicial systems. So that does provide another path for recourse for these communities.

Roxanna Altholz:

So I wanted to talk now about the mandate that independent accountability mechanisms have, and you described it as quasi-judicial. It's an interesting space where you see administrative law, international human rights law, environmental standards come together. So could you talk a little bit about how these different sources of law shape the mandate and the tools that independent accountability mechanisms use to accomplish their mandate?

Paul Goodwin:

Fundamentally, a mechanism, an independent accountability mechanism's mandate is limited to its parent institution's safeguard policies. Those safeguard policies, which at UNDP, we call them the social and environmental standards. At the World Bank IFC, it's the performance standards, each organization calls it their own thing, and they're more or less analogous to each other, although some are stronger than others in different fields. For example, the UNDP has a very strong human rights provision that the performance standards don't, which makes sense because if the UN can't promote and adhere to human rights standards, well, what organization will? The standards, I'll speak to the UNDP standards, are really a synthesis of international human rights law, environmental law, labor law, indigenous people's law.

All sorts of different international treaties and international legal provisions, and sort of accepted customs synthesized into sort of a guidebook on how the organization should go about its development activity. The leverage that the organization has is just in the money that it spends and the activity that it supports. The UNDP does not have a mandate to investigate a country's human rights record. That's another part of the UN that has that mandate, but the UNDP is often the biggest or one of the biggest organizations in certain developing countries.

So, it has enormous leverage both from a financial and sort of actual activity perspective, but also as a reputational actor in a given country as a strong institution that's there to promote human rights and there to promote environmental standards when maybe the host government is not capable or willing to do that in the same way. So in many senses, it's sort of a beacon of how things should operate in a country, and the leverage is the UNDP or the World Bank's money and support, but also it has a megaphone effect, where if the UNDP is going to go in and say, "Well, these are all of our standards and they're incorporated from the International Human Rights Treaties, and any activity that we support needs to comply with these standards."

"And if someone doesn't think that the standards are being complied with, they can file a complaint with SECU." And then SECU will issue a very long, very extensive report about how the organization is or is not supporting activity that follows human rights laws, that can be quite powerful for certain communities who are advocating for their own rights, whether the UNDP's activity that it's supporting is the biggest actor in town, it usually is not, but they can point to this report and say, well, the UNDP came in and looked at this, and they said, "Well, we're supporting this activity and the way that this ... for example, that this protected area is being created is going to displace a bunch of indigenous people."

And it's gone against their rights as indigenous people under the UNDRIP [United Nations Declaration on the Rights of Indigenous Peoples], and they did not get free prior informed consent. And even if UNDP wasn't the one who was supposed to do the free prior informed consent process, they can still say, "Well, we should not support activity that has not gone through the right FPIC [Free, Prior, and Informed Consent] process as an example." So it kind of has the bully pulpit situation going on too.

Roxanna Altholz:

And how do you feel as an investigator, as a staff attorney with SECU, who's trying to figure out the content and the scope of rights applied in a development situation, like the example you just gave of free informed prior consent, there's a considerable amount of debate around whether it's consent, consultation -- how do you deal with perhaps uncertainty or lack of clarification?

Paul Goodwin:

One of the overarching policies within our standards is that you apply the strictest of the following: national law, the standards themselves, and international law. So the UNDP has to ... when it's doing its development work and it's trying to determine which are the applicable policies and standards for a given set of activities, you have to use the stricter of those three possibilities. One of the key parts of our investigation is establishing the applicable standards in a given situation. If there's a protected area that's taking place in a country in Africa, first you analyze what those domestic laws are that apply to indigenous people's rights.

And then you look at the UNDRIP and then you look at the standards and you sort of create a whole set of applicable policies for that country, that specific situation, that group of people, and then you judge compliance against that. So half of our report is about establishing the applicable policies and standards.

Roxanna Altholz:

Do you find that the country offices that are tasked with abiding by, adhering to these standards are doing similar work? I mean, it sounds like you're looking for the ceiling, not the floor. Do you feel like within the country offices of UNDP, there is familiarity with standards and there is the instinct to look at the highest standard?

Paul Goodwin:

One of the coolest parts about my work is in addition to having an impact on local communities who are being negatively impacted by projects, it's also been to witness the macro changes that are happening at UNDP over the years, and the additional resources and emphasis that the organization has been putting in order to provide technical support to country offices that are trying to apply the standards. Prior to 2015, when the standards in my office launched, the organization had almost no exposure to the idea of implementing standards and determining what the standards are and doing this kind of analysis in the context of projects and analyzing the risks, identifying the risks, and mitigating against those risks.

Now, 10 years later or eight years later, I've seen an enormous investment by the organization to increase the capacity at the country level by backstopping them at the regional level and then at the headquarters level. It's been this incredible ... I mean, there's still a lot of ways to go, but it's been this incredible journey for the organization in many ways incentivized by the work that my office has done, sort of, we're the stick, and then they have the carrot, and there are other systems in place at UNDP as well to promote additional adherence to the standards, application of the standards, analysis of social and environmental risks in the projects that they do. So no, there is not always the capacity needed at the country level to fully implement the standards when it comes to their projects.

But, because of an office like mine and similarly at other development organizations around the world, there is that corporate commitment to improve and to increase capacity, that is the other piece of the puzzle that is really important and interesting for accountability mechanisms.

Roxanna Altholz:

SECU has been operating for really eight years now, which is not a huge amount of time, but it's an important amount of time. It's a significant amount of time. So can you talk about a best outcome for one of these investigations? An outcome that you feel really lived up to the promise of SECU in its mandate and also the worst outcome, an outcome that you really feel fell well short of the commitment and the promise of the accountability mechanism.

Paul Goodwin:

Once we've issued our report, we submit that to the head of the organization, the administrator, and it's up to him to make a decision about how to ... whether to implement our recommendations, how to implement them, and how to affect the project itself on the ground that we have investigated. So we only have recommendation powers. Now, our reports are made public. So there is a whole ecosystem of civil society organizations, stakeholders who can track the process from our final report to what the administrator has decided, to what the organization has implemented, et cetera, et cetera. So there is a certain amount of attenuation between the reports that we write, the administrator's decision, the implementation of that decision, and then the follow through.

We have had a number of cases where our reports had real impact on changing the course of a project that had some flaws in it, and that obviously is very satisfying. I recall a recent case from Kyrgyzstan where we received a complaint that a town near a uranium mine in Kyrgyzstan had contaminated water.

And that UNDP had gone in there and attempted to repair the water system in the village and came up short. The water system wasn't fully repaired. So then they ended up mixing contaminated water with clean water and it was a problem. And so we did an investigation and we issued a report, identifying the shortcomings of the project and the flaws that were made. It was a small project.

UNDP didn't invest very much money into it. They were just trying to help a town build a water pump basically, but because of our report saying basically, "Water is sensitive, and if you're going to get involved in a village's water system, you really need to follow through on the commitments that you make. You can't just sort of do it in a way that then leads to further problems down the road," the decision that the administrator made was quite strong. I mean, it just came out a few months ago and the decision involved the country office sort of reevaluating entirely what kind of involvement they need to have in this village and to assess how they can bring clean water to the village.

We're in the middle of seeing how exactly that's implemented. It was quite a strong decision in that regard.

Roxanna Altholz:

Let's talk about the nature of SECU's recommendations. Is that unusual for an accountability mechanism to the outcome to be really just recommendations to the head of the institution and for the institution to make the final decision of whether to adhere to the recommendations or not?

Paul Goodwin:

All of the accountability mechanisms are set up, most of them actually report directly to the board of the institution and then, it's up to the board to take a vote and decide how they want to implement the recommendations. We're uniquely set up within UNDP because the board is not a very active board, the way that it is at the World Bank. They don't meet very often. They're not as involved in the technical operations of UNDP, the way that they are at other institutions. So in our situation, we report directly to the administrators -- who is like the CEO of the organization -- but none of the mechanisms have anything except recommendation powers.

And in fact, some mechanisms don't even have recommendation powers. The inspection panel cannot make formal recommendations in their reports. They can simply identify non-compliance. That's a big debate within the community about whether that's effective or if it could be made more effective if they were able to make direct recommendations. At the end of the day, the power still rests with the leadership, the senior leadership, of the organization about how to implement recommendations including what type of redress might be considered by the organization, whether that's redesigning the project or doing a new project or canceling the project or issuing an apology or the big hot button issue is compensation.

About whether the organization should create a pot of money to create a compensation pool, which that's up to the organization to decide. There's a wide range of potential issues when it comes to recommendations, but at the end of the day, the recommendations that we make are simply for the consideration of the leadership of the organization.

Roxanna Altholz:

So I want to go back to the recommendations and how they can be leveraged in perhaps advocacy. I wanted to ask a question about redress, particularly monetary compensation. I think it's pretty undeniable at this point that international financial institutions have caused great harm to communities.

Do you know of any example where an international financial institution or development institution such as UNDP has provided monetary compensation to the people harmed?

Paul Goodwin:

We had a case from Bosnia where the UNDP distributed contaminated raspberry seedlings to a bunch of farmers in a post flood recovery scenario. And it later came to light that these seedlings were contaminated and that there was a risk that the land that these farmers had would need to lay fallow for a number of years before they could use it again without risking contaminating future crops. And one of the settlements that took place was between the UNDP and the farmers, not for cash, but for equipment and other material items that they distributed to each of the farmers. Now, I'm not going to opine on whether that's enough. We wrote our report and the administrator made their decision about the report based on his own analysis of what the organization could or could not do.

Roxanna Altholz:

Do you know of a case that has resulted in monetary compensation, it sounds like-

Paul Goodwin:

I don't think so. Not yet.

Roxanna Altholz:

So thinking about the recommendations -- as you know Paul, I litigate frequently before the Inter-American Commission on Human Rights where advocates could take a position that the Inter-American Commission has the authority in cases to issue binding judgments, but governments often take the position that they're mere recommendations. That has led me to think in a really nuanced way about what an official accounting of a violation -- what is the contribution it makes to communities that have been harmed? How have you seen the recommendations -- because I think sometimes there's a tendency to think, well, there's no enforcement there, it's just a recommendation -- how have you seen that recommendations, your recommendations, from SECU or from other independent accountability mechanisms have been used by communities that have been harmed, their representatives, advocacy groups, to try to create conditions where things can be improved?

Paul Goodwin:

That is one of the most striking corollary outcomes or parallel outcomes of our work, which is to say ... I've always said we're agnostic about how communities use our reports in their own advocacy work. I mean, they're transparent. We publish our reports for everyone to see and use however they want. And if a community takes a report that has identified a whole bunch of issues or non-compliance or problematic situations on the ground that my organization has somehow managed to get involved with for whatever reason, and then they take that report and they use it in their own advocacy, maybe they activate media responses or they enter their own judicial systems with those reports and they say, "Look, well, the UNDP Social and Environmental Compliance Unit came in and they found X, Y, Z." That's fine. Obviously, it does not form part of our official mandate of mechanisms, but I think everyone who's in the IAM, the Independent Accountability Mechanisms network world acknowledges that it's a very strong advocacy tool for a lot of communities in a lot of different situations to have these mechanisms reports out there. As far as I'm concerned, and I think anyone who's involved with these mechanisms would agree, that's fine. We're not there to control how people use the report.



And if they go and they take it to the media or they go and they take it to a judicial system or they go and they take it to an international tribunal of some sort, and that helps them in their advocacy for them defending their rights, I say kudos.

Roxanna Altholz:

Do you see other parts of the United Nations, like special rapporteurs or special procedures, embracing some of the work that you're doing and then, the findings or recommendations from your investigations?

Paul Goodwin:

Yes, absolutely, but they're the ones who are dealing more in hard law, and we're dealing more in sort of this soft law situation, administrative review type process. So, in a sense, our work is confined to the administrative context of our organization. So I don't think we would see special rapporteurs or the human rights bodies quoting our reports as any sort of precedent setting for international human rights law, but we certainly are creating our own body of human rights administrative law and the mechanisms look to the other mechanisms for what best practices are when it comes to compliance investigations like what we do or dispute resolution processes or what direction are IAMs taking to promote rights?

And rights that are acknowledged under the international human rights system, but in the context of development work. I don't understand us to be pioneering new human rights standards to the UN organs that are the ones mandated to do that, so much as them trying to in some ways promote our work as a tool for promoting and protecting those rights in the international development context and the international system more generally.

Roxanna Altholz:

So I would say in the last 25 years, 30 years since these mechanisms have begun to emerge, I feel like there's been a trend away from dispute resolution as the main focus of the work, an acknowledgement that parties are really differently situated. As you said, it's very difficult to resolve a conflict between an indigenous community that has cosmovision -- a certain cosmovision of the earth -- and extraction of oil and Chevron for many, many reasons. So the mechanisms have moved towards compliance. That's a trend that we've seen. Right now, there is a committed effort to negotiate an international treaty on corporate human rights obligations.

I'm wondering what trends you see for the future and how that specific treaty may influence the way these independent accountability mechanisms shape their mandates and do their work.

Paul Goodwin:

I do think that the independent accountability mechanisms themselves, and they've formed this network called the IAMnet, in many ways are a significant actor in moving forward their own work, I would say equally accompanied by civil society organizations that are pushing them and the parent institutions are pushing them forward. There are definitely trends within the IAM sphere, that trend towards more rights for communities, more obligations for the parent institutions, more structures of accountability for the parent institutions. For example, I'm not sure if this is directly answering your question, but there's this new idea about a responsible exit from international development organizations.

For example, let's say the World Bank was financing a hydroelectric dam, but it was going wrong because they weren't able to do it in a way that respected local communities' rights. And so, they sort of

cut ties with it and leave. Well, how do you do that responsibly? I mean, it's not enough to just say, "Well, we can't figure out how to do this project right, so we're out of here." There's some acknowledgement that when you're this big actor that sort of seeded the investment in the first place and you got the whole thing going, and then you realize that it kind of turned into a disaster for whatever reason, that there's this whole new emerging debate about what policies and what requirements exist for the parent institution when they're leaving something that was a problem.

And that's an example of these IAMs pushing forward a whole new area of sort of standards or policies, if you will, that might apply to the parent institution and leading that debate in a way that will actually change what the parent institution commits itself to.

Roxanna Altholz:

I'm happy to hear this issue of responsible exit being discussed. As you know, I was involved in investigating the murder of Berta Cáceres. And so --hydroelectric dam project seeded with money from international financial institutions, lots of red flags, alarm bells rung along the way about the conflict that the project was causing. It culminates after lots of violence in Berta's murder and then FMO and Finnfund, the international financial institutions involved, withdraw the money. To this day, the company still has a concession over the river to build the dam. To this day, despite I think we're up to eight criminal convictions, including of the CEO of the company, there's an effort to move forward with the project.

And there is a sense that Finnfund and FMO kind of wipe their hands of the problem by withdrawing without even publishing the terms of that withdrawal. We don't think the loans were ever repaid.

Paul Goodwin:

It's an emerging very hot button issue right now because we're getting to the point now where these standards are advanced enough and ingrained enough in these organizations' operations where they sort of can acknowledge that they need to withdraw from a project because they're causing more harm than good, and they're harming people's rights and they're getting people murdered and because of retaliation like in Berta's case, but that's new relatively. To get there is sort of a historical advancement. And now the next step is, well, how do you remove yourself in a responsible way that doesn't cause more harm or doesn't exacerbate a problem, or doesn't leave for hangnails that are just very uncomfortable for lots of different actors in an area?

It's an emerging field. That is, the debate and the discussions are happening within the IAM context because we are the mechanisms that are meant to enforce these standards and these policies. And because the organizations have immunity and because the organizations look up to their donors and their member states, it doesn't come from below.

Roxanna Altholz:

It also sounds like redress is an issue that is being discussed and more seriously thought about despite of decades, that there is a responsibility to provide redress and redress should include monetary compensation. Do you think that that's true?

Paul Goodwin:

Yeah, the discussion is happening everywhere. I mean, the discussion is happening at the World Bank. It's happening in the UN system. There's obviously an understanding that this needs to be thought through, and that whether there is money or isn't money, that it needs to be discussed publicly and that

there needs to be sort of a decision that gets made in a public way. The competing interests are sort of self-evident. If you take money from one place, you're taking it from another place. So, I think a lot of the development organizations believe that their resources are limited and that they need to make budgetary decisions in ways that protect their core mandate, which is to do development work.

The debate and the discussion is above the mechanisms themselves, right? That's more like the corporate policies about what they are not willing to do.

Roxanna Altholz:

How many cases has SECU handled?

Paul Goodwin:

At this point, I think we're up to around 20, but only about 15 of those are cases that have either have gone or are going through the entire process. The other ones we've put up on the registry, but they're ineligible for one reason or the other. So I would say in the dozen range of cases that we've gone through, either all or most of the investigatory processes.

Roxanna Altholz:

So about 15 cases, that's about two a year, and I know that you do a pretty involved investigation, which means traveling to the communities. Can you talk a little bit about the communities, how they regard SECU, how they regard UNDP, where their hopes lie and where their frustrations are? What's their perspective on SECU?

Paul Goodwin:

What's been surprising, but maybe that's just because I'm involved with UNDP all day every day, is that actually a lot of communities don't know about UNDP and they don't even know that there's a UNDP project in their backyard in some way. Those who do know, who are impacted by a UNDP project have a way of finding out that the UNDP is the organization responsible for something that is affecting them. We go to the communities, we make it a point to go to the communities and to interact with them, to consult with them, to hear from them, to listen to their voices, and then incorporate those voices into our report that will be made public and will be official.

So I think that that's really important to a lot of communities is to just have their voices amplified and to be listened to, and to be consulted with and to be ... and UNDP knows that too. I mean, that's integral to their policies is that consultation must be done robustly and properly, and there's a strong commitment from the organization for that to happen, but sometimes for whatever reason, it doesn't. And so when we get there, we hope that we are perceived as very much open to hearing what they have to say and to listening to their grievance.

Roxanna Altholz:

And how do you do that? How do you ensure that you're not just listening to the loudest voice and you're not just listening to a voice that is speaking about a certain problem, but you're listening to a range of voices, even the voices that are marginalized by their own communities?

Paul Goodwin:

Multi-layers of marginalization are something that we have to deal with on a regular basis. You're talking about already usually a country that's bottom quintile poverty in the world, so just their entire economy is marginalized in terms of the world order. And then within that, you're going to a region of the country that's among the poorest regions, for example, and then you're in a village where there's multiple ethnicities, some of which oppress other ethnicities within that community, especially in an indigenous people's context. So a lot of scoping has to happen before you get yourself in that situation. You talk to local interlocutors and you try to engage local NGOs to understand what the relationship is.

You read about the relationship between, for example, an indigenous group and a non-indigenous group that lives in the same territories as where that indigenous group lives. You start to scope it out, but we're not experts and we don't pretend to be experts, right? So if there's a need for anthropological expertise, we would engage those people to learn about the anthropological relationships between different ethnicities in a given region that we would have no way of knowing about. So I think humility is sort of the most important thing is to just say, I don't know how these people work. I've never been there. I've never met them.

In terms of accessibility, I mean, you get an interpreter, you get an independent interpreter who the community would trust, who doesn't come from the country office, who doesn't come from the logging company down the road that is taking their forests away. You work really hard to create a space where they can trust you and you build that trust according to their customs and what they're comfortable with.

Roxanna Altholz:

Do you think SECU has been successful in establishing trust?

Paul Goodwin:

We've had help from the local and regional and international NGOs that have approached us, right? We could never do this on our own. We always require sort of local contacts to help us facilitate contact with communities. There would be no way for us to sort of helicopter in otherwise. So the idea or the hope is that when we receive a complaint from a community, most of the time they'll be represented by an NGO that has deeper connections with that community, and they'll facilitate our interactions with those communities, but we will very much be asking that NGO, "What do we need to do?" to do it in a way that builds trust and feels safe for them and is on their terms, their time of day, their timeline, to understand their gender dynamics so that we're giving women a voice, we're giving elderly a voice, or we're giving children, teenagers a voice -- or whomever it might be to ensure that we do hear from everybody. That's really, really important and really, really hard and resource intensive. That's what our field missions are largely about, is trying to scope that out, because it's easy to go to a country and talk to our country office. You just show up and they talk to you, and they talk to you in your own language, and they talk to you on your own terms, and they have to talk to you because they're obligated to, but then you travel for a day into the rainforest, down the river or wherever it might be. That's when the mission gets more difficult, but it's also the heart of the mission.

Roxanna Altholz:

It sounds like one of the barriers is also just knowing that UNDP is involved with that water pump being built in your community, and then knowing how to reach out and file perhaps a complaint before SECU and having the resources to do that. How do you think about those barriers to entry, those barriers of just knowing that UNDP is supporting a project in some way?

Paul Goodwin:

A lot of what we do, and even what I view this podcast as, is sort of a form of outreach, to spread the word about SECU. And not only SECU's existence, but ways to find out whether UNDP is involved with something. So, UNDP's own transparency portal and what information is available there and how you can gather information. We also act as a conduit for information from communities that maybe know about us, but don't know whether UNDP is involved. And they'll ask, "Hey, is this a project that you guys are supporting?" And then, we go to our people and we either look online or if it's not available, we go to our intranet or we go to the country office directly to try to find that information.

So a lot of what we do is outreach, both for our own mechanism and for UNDPs, and the other mechanisms do the same thing for their parent institutions is just how do communities find out that a project is affecting them? Where do you go for that information? When we do outreach, we devote a significant amount of time to just, how do you find out if UNDP is in your neighborhood doing something that you may not be comfortable with or happy with?

Roxanna Altholz:

And one challenge with the IFC is financial intermediaries. So, there's different ways to support a project. Is that a challenge with UNDP, that there are gradations of supporting a project and there can be the direct financial support, there can be a reputational support. How does that play out?

Paul Goodwin:

It's a huge challenge. UNDP doesn't have financial intermediaries since it's not a financial institution, but it does have middlemen and middle players and supply chain levels that go down and consultants that do this work. So for example, we had a case where UNDP was doing a bunch of activity, but they actually hired a consulting firm to manage a whole bunch of people. So there was a line of separation between the group that was being "harmed" and UNDP itself. And at first they didn't even realize it was UNDP. They thought it was like a consulting firm. So that happens all the time, and one of the obligations that's built into the standards is that in theory, project implementers need to inform stakeholders of SECU's existence.

I mean, whether that happens all the time is a very different question, but they are formally obligated to do that. Same at the IFC. They're obligated to inform their loan receivers that the accountability mechanism exists and that there are these standards that must be complied with. But as you correctly identified, and there's so many levels of attenuation between the money and the activity, that it's really difficult for even me sometimes to identify what's going on. Imagine a community without access to the internet, how is that supposed to happen? So it's a huge challenge. That is part of what our work is, is to shrink that gap as much as possible, but it'll never be fully shrunk.

Roxanna Altholz:

So Paul, I wanted to kind of end by bringing this back to you. You are ... and I think this is typical of a human rights career in many ways, you're kind of inventing your role in your jobs as you go along. You graduated from law school, you joined SECU when it was first established. Where do you see your career going?

Paul Goodwin:

It's interesting. So I've been growing with the office, like you said, since its own infancy at the start of my own infant career, because I was brought on as a fellow for six months where Berkeley was actually paying my humble salary for-

Roxanna Altholz:

Thank you Berkeley Law.

Paul Goodwin:

Yes, thank you, Berkeley Law for the Bridge Fellowship. Get yourself a Bridge Fellowship today. And then, I grew with the office, started off as a consultant and then a very, very low level staff member. And I've just been growing, and now, I'm the head of the office and I actually have a team of eight people that I manage. And it's turned into a whole medium-sized, no longer completely new office. And like you also said, I've been charting my own course in some ways because what the office is and how it runs and what kind of people you bring on board and what kind of reports you write, and all that is very much just --we're figuring it out all together as a team.

I have wonderful people that I work with and they have a lot more experience than me when it comes to these reports, but we're all still just trying to figure it out together. In terms of where I go from here, it's a really interesting question. I mean, I do think one of the unique sets of experience that I have is I can build these mechanisms from scratch. We said there's almost 30 mechanisms out there, and there are, but it's not at every international development organization. So for example, there are a lot of UN agencies that don't yet have fully formed functioning accountability mechanisms, and they're going through their own process of developing their standards and building out their mechanisms. So it might be interesting to get involved with one of those agencies to build their mechanism and to build it into a fully functioning office.

Roxanna Altholz:

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