

Queensland University of Technology

Brisbane Australia

This is the author's version of a work that was submitted/accepted for publication in the following source:

Jefferson, Osmat Azzam (2010) How are Accountability Standards Implemented in International Agricultural Centers? *ILSA Journal of International and Comparative Law*, *16*(2), pp. 457-467.

This file was downloaded from: http://eprints.qut.edu.au/39830/

Notice: Changes introduced as a result of publishing processes such as copy-editing and formatting may not be reflected in this document. For a definitive version of this work, please refer to the published source:

HEINONLINE

Citation: 16 ILSA J. Int'l & Comp. L. 457 2009-2010

Content downloaded/printed from HeinOnline (http://heinonline.org) Fri Apr 22 07:38:22 2011

- -- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at http://heinonline.org/HOL/License
- -- The search text of this PDF is generated from uncorrected OCR text.
- -- To obtain permission to use this article beyond the scope of your HeinOnline license, please use:

https://www.copyright.com/ccc/basicSearch.do? &operation=go&searchType=0 &lastSearch=simple&all=on&titleOrStdNo=1082-944X

HOW ARE ACCOUNTABILITY STANDARDS IMPLEMENTED IN THE INTERNATIONAL AGRICULTURAL RESEARCH CENTERS?

Osmat A. Jefferson*

I.	INTRODUCTION	457
II.	CONTEXT, PURPOSE, AND IMAGE OF THE CGIAR AND ITS R	ESEARCH
	CENTERS 459	
	A. How Does the CGIAR Work and What is its Global Image	ige?460
	B. Do Administrative Law Mechanisms at These Centers	
	Incorporate the Global Administrative Law Requirement	nts?461
III.	GLOBAL ADMINISTRATIVE LAW REQUIREMENTS AT CGIAR	
	CENTERS	462
	A. Transparency and Access to Information	462
	B. Procedural Participation	463
	C. Reasoned Decision	463
	D. Review of Administrative Decisions	463
IV.	IMPLEMENTATION OF GENDER EQUITY AND NON-DISCRIMINATORY	
	PRACTICES IN CGIAR CENTERS	464
V.	CONCLUSION	467

I. INTRODUCTION

First, I would like to thank the panel members, in particular, Mr. Edward Flaherty, for inviting me to participate in this meeting. I am most grateful for this kind invitation.

Ladies and gentlemen, colleagues and friends;

On the 24th of October 2008 and during the 63rd anniversary of the United Nations, UN Secretary-General Ban Ki-moon's message was: "If we want to advance the global common good, we must secure global public goods."

Advancing the global good, and building a world of peace, security, and prosperity for all are ideals and inspiration. Realizing these ideals requires systems, legitimate governance, and resources. International Organizations (IOs) are primary agents to deliver these public goods, and to

^{*} Professor of Science, Technology & Law, Cambia@QUT, G301, G block, QUT-GP, 2 Georges St. Brisbane, QLD 4000, Australia. The author thanks Mr. Owen Hughes for his comments and edits on earlier versions of the text.

^{1.} Secretary General, Message on United Nations Day (Oct. 24, 2008), available at http://www.un.org/events/unday/2008/sgmessage.shtml (last visited Feb. 25, 2010).

work with or for them is considered both a privilege and an honor. In fact, the employment relationship between IOs and their staff extends way beyond a contractual element to an allegiance to the organization. Therefore, such relationship embeds additional elements to form an ensemble of employment relations.²

However, for the last decade or so, scholars, observing the explosive proliferation in number, scope, and ambitions of new IOs³ are asking more and more whether IOs are agents of public good, or whether new IOs are established to compete with traditional nation-states for social power.⁴

While this is an important question to keep in mind, for this presentation, I will focus on the employment relationship between IOs and their staff; specifically, on the tension between workplace rights such as "due process" and the entitlement to autonomy in governance afforded to IOs. After describing the context in which this alliance was founded, its purpose, and its global image, I analyze the standards of global administrative law that are applied in the various research centers.

International Organizations claim autonomy; that is the power to govern internal affairs independent of external reviewers or any public scrutiny. In the shadow of that autonomy, I ask how IOs safeguard workplace equality rights such as the right to "due process?" IOs promise fair and equitable treatment. Is their independent governance legitimate? That is, does it have the core elements that protect the legal position of the staff? Do their administrative law mechanisms that are on paper match those in practice?

To address these questions, I examine one of the eldest and largest global programs of the World Bank, the Consultative Group on International Agricultural Research (CGIAR), which funds and manages fifteen (15) independent international research centers around the world.⁵

Although CGIAR does not possess a legal personality, and may not be considered as an international organization; its alliance with the World Bank, and the autonomous fifteen (15) international organizations make it an interesting case study. I analyze the standards of global administrative law being applied in the various research centers after describing the context in which this alliance was founded, its purpose, and its global

C.F. AMERASINGHE, PRINCIPLES OF THE INSTITUTIONAL LAW OF INTERNATIONAL ORGANIZATIONS 281 (2nd ed., Cambridge Univ. Press 2005).

^{3.} UNION OF INTERNATIONAL ASSOCIATIONS, INTERNATIONAL ORGANIZATION BY YEAR AND TYPE (1909–1999), http://www.uia.org/statistics/organizations/ytb299.php (last visited Feb. 19, 2010).

^{4.} JAN KLABBERS, Checks and Balances in the Law of International Organization, in AUTONOMY IN THE LAW, 141 (Mortimer Sellers ed., 2007).

^{5.} CGIAR, Who We Are, http://www.cgiar.org/who/index.html (last visited Feb. 19, 2010) [hereinafter Who We Are].

image. These standards include transparency and access to information, procedural participation, reasoned decision, and the rights to review administrative decisions. Based on this analysis I clarify the actual administrative practices in the employment at these Centers and reflect on how workplace equality rights, which are "on paper" match those "in practice" and how IOs autonomy impacts individual legal rights in the international workplace.

II. CONTEXT, PURPOSE, AND IMAGE OF THE CGIAR AND ITS RESEARCH CENTERS

In 1968, Robert McNamara, then the 5th president of the World Bank, introduced into the Bank the "people's basic needs" approach, and shifted investments from a focus on the physical to the human part.⁶ He did so because rapid industrialization had failed to benefit most of the poor. That shift led to the promotion of distributional equity along with economic In the early 1970s, the Bank lending focused on improving agriculture, public health, and education and so under these circumstances, in 1971, the CGIAR was founded at the peak of "green revolution" and the introduction of new dwarf varieties of wheat (led by Dr. Norman Borlaug), and rice (Dr. Gurdev Khush and others).⁷ The purpose of the CGIAR was to locate the best science-based tools and technologies in advanced countries, and adopt them to benefit food-deficit countries and populations.8 CGIAR was the first and is the largest global public goods program to be supported by grants from the World Bank. Initially, the CGIAR supported four pre-existing international agricultural research Centers established by the Ford and Rockefeller foundations: International Center for Tropical Agriculture (CIAT) in Colombia; International Maize and Wheat Improvement Center (CIMMYT) in Mexico; International Institute of

^{6.} Sandra Blanco & Enrique Carrasco, Pursuing the Good Life: The Meaning of Development as It Relates to the World Bank and the IMF, The Functions of the IMF and the World Bank, 9 TRANSNAT'L L. & CONTEMP. PROBS. 67, 80–81 (1999); Sandra Blanco & Enrique Carrasco, The Functions of the IMF & the World Bank (1999) 9 Transnat'l L. & Contemp. Probs. 67, accessed at http://www.uiowa.edu/ifdebook/ebook2/PDF_Files/Part_1_2.pdf (last visited Feb. 25, 2010); see also Namita Wahi, Human Rights Accountability of the IMF and the World Bank: A Critique of Existing Mechanisms and Articulation of a theory of Horizontal Accountability (2006) 12 U.C. Davis J. Int'l L. & Pol'y 331.

^{7.} World Bank, The CGIAR at 31: An Independent Meta-Evaluation of the Consultative Group on International Agricultural Research, Volume 1: Overview Report (2003) http://www.worldbank.org/ieg/cgiar/ (last visited Feb. 25, 2010)[hereinafter World Bank].

^{8.} Who We Are, supra note 5.

^{9.} World Bank, supra note 7.

Tropical Agriculture (IITA) in Nigeria; and International Rice Research Institute (IRRI) in the Philippines. 10

Today, the CGIAR is a strategic alliance of 64 Members (public and private) to support 15 international Centers. ¹¹ Each center is legally constituted as an independent self-governed organization with a legal personality operating under an agreement with its host countries. CGIAR is comprised of 25 developing and 22 industrialized countries, four cosponsors as well as 13 other international organizations with more than 8,000 CGIAR scientists and staff spread over 100 countries. ¹²

Over the years, the mission of the CGIAR expanded to achieving sustainable food security and reducing poverty in developing countries "through scientific research and research-related activities in the fields of agriculture, forestry, fisheries, policy and environment."¹³

A. How Does the CGIAR Work and What is its Global Image?

The alliance is a "loosely connected" network of:

- a) An executive Council and partners;
- b) A Science Council; and
- c) An independent international agricultural research Centers supported by the CGIAR, and Center committees.¹⁴

These are supported by the CGIAR System Office, which has a pivotal role in the integration and administration of the System.

What image does CGIAR project? With the lack in a legal personality, the World Bank's sponsorship and provision of the chairmanship give it an international legitimacy. As the main co-sponsor, the World Bank hosts the CGIAR. The secretariat, its staff, and its president nominates the CGIAR Chair who is usually the vice president in charge of the Bank's agricultural division. The CGIAR Chair subsequently selects the CGIAR director who will also be a World Bank senior staff. Maintaining its informal structure, the CGIAR was founded "without a charter, rules of procedure, or

^{10.} CGIAR, The Charter of the CGIAR System, § I \P 9, http://www.cgiar.org/pdf/charter%202007_main%20text.pdf (last visited Feb. 19, 2010) [hereinafter CGIAR].

^{11.} CGIAR, supra note 10 §I ¶ 1.

^{12.} Who We Are, supra note 5.

^{13.} CGIAR Charter, supra note 10, § II, ¶ 16.

^{14.} Id. § I, ¶ 2.

^{15.} Id. § III, ¶ 56.

^{16.} Id. § III, ¶ 59.

conditions or procedures for membership."¹⁷ However, as the system's activities expanded, a reform program was initiated in 2001, and a Charter was drafted in 2004 and amended in 2006 and 2007. Decision-making remains based on consensus rather than by vote.¹⁸

Having a social purpose, the CGIAR is considered an instrument of good and an organization with a progressive outlook (since 1992, it has had an active gender diversity program). Because of its mission and the fact that each Center controls a specific technical expertise and information, one can argue that CGIAR projects not a political agenda but a scientific and technical mandate.

B. Do Administrative Law Mechanisms at These Centers Incorporate the Global Administrative Law Requirements?

Before I explore this central question, I want to clarify some points about the employment relationship between CGIAR Centers and their staff. First, the employment relation is fragile. Due to the *ad hoc* funding situation, the restricted, and project-based funding,²⁰ the consensus decision-making in the distribution of funding, and the fragmentation of or competition among the fifteen (15) centers for resources; individual centers may need to undergo various hiring and retrenchment cycles at all levels but substantively at the base level employees. Therefore, short-term instead of long-term contracts are the norm, and substantive resources remain consolidated under the discretion of senior managers of individual centers to ensure continuity and flexibility of research programs.

Second, the different centers operate in different social and legal contexts. Eleven of the fifteen (15) centers are located in developing countries where there are strong class, gender, and race power intersections. The employment relationship of Internationally Recruited Staff (IRS) is structurally different to that of Nationally Recruited Staff (NRS). Rules and policies for nationally and internationally recruited staff also vary between individual centers. Internationally recruited staff (fourteen to twenty percent of the total staff) is governed by the IOs and the host country

^{17.} CGIAR, cgiarNews: CGIAR Charter Adopted by Acclamation (December 2004), http://www.cgiar.org/enews/december2004/story_02.html (last visited 19 Feb. 2010).

^{18.} CGIAR Charter, supra note 10, § III, ¶ 59.

^{19.} See CGIAR, CGIAR Secretariat Publications: Gender Program Papers, http://www.cgiar.org/publications/gender/index.html (last visited Feb. 19, 2010).

^{20.} Anderson, Jock R. & Dalrymple, Dana G., The World Bank, the Grant Program, and the CGIAR: A Retrospective Review, 63 (World Bank Operations, Working Paper No. 1, 1999).

intervenes only as may be allowed under its treaty with the IOs.²¹ In contrast, NRS are governed under national employment laws of the host country and/or as agreed upon in the treaty.²²

Third, as with other international organizations, the employment relationship with staff extends beyond a contract to an ensemble of relations (including statutory elements)²³ that may change as the organization sees fit, and without further notice which are binding on staff.²⁴ From a legal perspective, the impact on the employment relation is very important. The legal position of the international staff, for example, becomes weak in these Having no legal access to national courts due to the organization granted immunity and with the Centers' ability to reserve the right to use various statutory elements in the conditions of employment, a shift in the power dynamic between the employee and the employer would be expected.²⁵ The equality base with the employer is altered and therefore, staff bargaining ability is diminished, but the discretionary power of the management is strengthened. So, in the shadow of these complexities and the lack of own administrative tribunals to settle employment disputes with their staff (some subscribe, on need basis, to the ILO administrative tribunal²⁶), CGIAR centers seek to incorporate administrative laws standards to keep the employment relationship within the pale of law.

III. GLOBAL ADMINISTRATIVE LAW REQUIREMENTS AT CGIAR CENTERS

A. Transparency and Access to Information

As with other international organizations, the CGIAR Centers have taken steps to make documents and records available to the public. Many even created websites that furnish a core collection database.²⁷ However, documents describing procedural details of the institute's policies are not easily accessible. Sometimes, they are not even available.²⁸ From those,

^{21.} See Colombia and International Centre For Tropical Agriculture art. 4.9(a), May 5, 1987, 1515 U.N.T.S. 220, 225 (1988).

^{22.} Id. art. 4.9(b).

^{23.} de Merode v. The World Bank, Decision NO. 1 (World Bank Admin. Tribunal 1981), http://lnweb90:worldbank.org/cm/wbt/wbtwebsite.nsf/(resultsweb)/470F6C6098A11FDF852569ED006 BB877 (last visited Feb. 25, 2010).

^{24.} Kaplan [1953] UNAT Judgment No. 19, §3.

^{25.} AMERASINGHE, supra note 2, at 282.

^{26.} Drago A. v International Plant Genetic Resources Institute (IPGRI), Court of Cassation, all civil sections, 19 February 2007, No. 3718 (unpublished), ILDC 827 (IT 2007).

^{27.} Who We Are, supra note 5.

^{28.} Id.

which I was able to access, it seems that each center provides new staff members with an internal document that contains guiding principles applicable to all staff. The Center's document describes administrative procedures in broad terms but lacks details and contains no procedural guarantees of "due process," accountability standards for the executives, clear enforceable anti-discrimination procedures, or access to an independent and impartial justice system.

B. Procedural Participation

Thus, procedural participation is not being spread in a uniform or complete way. Staff Rules and Regulations are silent on the procedural guarantees of "due process." Substantive principles such as proportionality and legitimate expectations are emerging, but unfortunately, the CGIAR Centers do not refer to them, incorporate them into a legal mechanism, or apply them.

C. Reasoned Decision

The requirement to provide a reasoned decision is a crucial factor in rendering decisions broadly accepted by the staff, and furthering their loyalty and commitment to the mission of the organization. Unfortunately, at CGIAR centers, the described policies are subject to the limitation of host country agreements, the actions of funding entities, and the laws and the norms of the governments within which the Centers operate. Each Center, therefore, preserves the right to act on such considerations and amend or suspend any of its procedures with a self-monitored internal staff policy.²⁹

D. Review of Administrative Decisions

As for the review of administrative decisions, each Center has its own internal Grievance or Appeal Committee, and details of the procedures remain within the Human resource (HR) office of the organization.³⁰ In general, dispute resolution proceeds hierarchically by meetings first with the supervisor then with the other branches of the executive management team. And generally there is no reference to a right of access to court or independent evaluation by external reviewers. As mentioned above, some individual Centers had subscribed in the past to the ILO administrative tribunal, however, the subscription seems to be based on *ad hoc* needs of

^{29.} International Institute of Tropical Agriculture, *Personal Policy Manual for Internationally Recruited Staff* 1 (2004), http://intranet.iita.org/resources/IRS%20policy%20manual.pdf (last visited Feb. 19, 2010).

^{30.} Id. at 24.

the centers rather than an obligation from the center to its staff to safeguard their workplace rights.

Apparently, there are no policies to protect whistleblowers or to prevent discriminatory harassment in the workplace in all its forms, the sexual and nonsexual. The current policies available on discrimination seem to focus on discrimination as an individual pathological behavior based on a sexual content in the workplace, rather than about sexism.

In summary, the CGIAR Centers seem to rely on broad administrative rules that boost a notion of fairness in the employment relationship, however leaving any procedural guarantees open and ambiguous in the Staff Rules and Regulations without clear or transparent internal accountability mechanisms, without reasoned decision-making, and without independent reviews or access to even quasi-judicial courts.

This could support an argument that things are going well. Even with the basic and minimal administrative law requirements that are in place, CGIAR Centers are managing effectively the employment relationship, and fostering a diverse and non-discriminatory workplace environment. Under their by-laws they established a legal/rational governance process, and accountability standards (basic, although minimal).³¹ As they have been doing for the last twenty years, they would continue to improve slowly their internal laws by conducting more and more of training workshops, and research or statistical studies to help employees cope better in the workplace.

On the other hand, one could argue differently from these facts. One can zoom a bit closer and investigate the progress achieved by the CGIAR Centers in the past twenty years in the area of discrimination and gender equity, and examine its impact. The analysis was based on existing research data available from that program and a recent independent review of the CGIAR.

IV. IMPLEMENTATION OF GENDER EQUITY AND NON-DISCRIMINATORY PRACTICES IN CGIAR CENTERS

The Gender Staffing Program began at the CGIAR in 1991 with a mission to educate, research, and collaborate on gender equitable work environments, as well as provide a resource for work opportunities for women at CGIAR Centers.³² Many Centers made explicit commitment to

^{31.} The by-laws of some centers can be accessed through the CGIAR website at http://www.cgiar.org/corecollection/index.cfm (last visited Feb. 19, 2010).

^{32.} Deborah Merrill-Sands et al., Engendering Organizational Change: A Case Study Of Strengthening Gender Equity and Organizational Effectiveness in an International Agricultural

attract more women to their workplace, and to provide "a work environment equally hospitable to and supportive of men and women." In several of these studies, a more consistent pattern is emerging for the internal affairs of the institute; a fragmented administration that is *ad-hoc*, transient, and supporting individuals' autonomy and independence through internal competition rather than collaboration. ³⁴

Within this context, gender, as social constructed differences between "man" and "woman," has been very visible in CGIAR Centers. As with any hierarchical organization, with the top manager white male CEO from a Western society, individuals act according to certain prescribed cultural notions reflecting norms of behavior of the outside society. To ensure conformity within the workplace environment rules of conduct (implicit and explicit), and other enforcement organizational mechanisms regulate gender performance. The society of the conformance of the conformal prescribed cultural mechanisms regulate gender performance.

Through the examination of several surveys over the years, figures indicate that the numbers and proportion of IRS or NRS women have increased over time; however there is a disparity between Centers and the progress has been very slow. Some Centers have less than fifteen percent of women staff whereas others have fifty-five percent women staff. Centers, which are located in developed countries, tend to have a higher number of women staff. On average, at the CGIAR Centers, women make up only twenty-seven percent of the total workforce, and only twenty percent of that number are involved in Science, and nine percent in Center management. These results suggest that the work environment, especially in those Centers located in developing countries, is still mainly conducive and supportive of men rather than women.

Research Institute 16 (CGIAR, Working Paper No. 21, 1999), http://www.worldbank.org/html/cgiar/publications/gender/gender21.pdf (last visited Feb. 19, 2010).

^{33.} Id. at 1.

^{34.} Id. at 12.

^{35.} Joan Acker, *Inequality Regimes: Gender, Class, and Race in Organizations*, 20 GENDER & SOC'Y 441, 441–442 (2006) available at http://gas.sagepub.com/cgi/content/abstract/20/4/441 (last visited Feb. 19, 2010).

^{36.} Johanna Bond, International Intersectionality: A Theoretical and Pragmatic Exploration of Women's International Human Rights Violations, 52 EMORY L.J. 71, 98 (2003) [hereinafter Bond].

^{37.} Bond supra, note 36.

^{38.} Gayathri Jayasinghe & Bob Moore, First the good news . . .: Staffing In The CGIAR 2003 37 (CGIAR, Working Paper No. 40, 2003), http://www.genderdiversity.cgiar.org/resource/default.asp (last visited Feb. 19, 2010).

^{39.} Id. at 15.

^{40.} Id. at 5.

For example, survey results in that study also reveal that while the age profile for scientist career structure for men at CGIAR Centers is typical, the profile for women's careers shows a very significant decrease from the 35–44 age group. This trend suggests a lack in the ability of the Centers to retain mid-career to senior women who would potentially be role models to new-comers. Women departure patterns over seven years show that "IRS women departures has exceeded men's in all but one of the seven years." In HR files, women or men's departures were vaguely categorized as "voluntary" or "non-renewal of fixed-term contracts" without a comprehensive or a clear reasoned decision.

A recent independent review of the CGIAR revealed that gender analysis at these Centers is ad hoc and depends on individual initiative. The CGIAR does not have a system wide policy to integrate gender into its research centers. And when the review panel recommended a shift from an advocacy-based approach to an accountability-based approach to integrate gender equity into CGIAR, only twenty percent of the CGIAR's Board Chairs and Center Executives responded favorably to this recommendation.⁴³

The Gender and Diversity Program has been less successful at promoting accountability around systemic gender-based assumptions, or assumptions based on recruitment category and hierarchy in the employment of IRS or NRS women at CGIAR Centers.⁴⁴ Its role has been limited to promoting career opportunities and conducting leadership workshops to improve the working environment.

One can argue that gender equity within CGIAR Centers is complex and no different than that in other international organizations. However, considering:

- a) The disproportionate impact that autonomy has on women staff at these Centers;
- b) The self-governed structure and its resistance to the implementation of performance measures and accountability approaches to integrate gender equity; and

^{41.} CGIAR, Updated Analysis of Future Harvest Center Demographics CGIAR Gender & Diversity Program, http://www.cgiar.org/exco/exco2/Future_Harvest_Demographics.pdf (last visited Feb. 19, 2010).

^{42.} Gayathri Jayasinghe, supra note 38, at 39.

^{43.} CGIAR Independent Review Panel. 2008. Bringing Together the Best of Science and the Best of Development. Independent Review of the CGIAR System. Report to the Executive Council. Washington, DC. 46, 48-49.

^{44.} Id. at 49.

c) The lack of any judicial review for employment cases or procedural guarantees to internal hearings, one can also argue that under the current administrative laws, autonomy in the CGIAR does not safeguard gender equity, nondiscrimination policies, or due process in the employment relationship with the staff.

V. CONCLUSION

To conclude, through the shadow of IOs autonomy and based on available literature. I examined how the CGIAR Centers' administration incorporates the generally accepted accountability standards in their employment relationship with their staff. My analysis showed that while it can be argued that the Centers possess at least minimal standards and systems for accountability, there is a salient lack of safeguards for the staff. First, the legal position of any staff member is weak and is not defended by reasonable or adequate procedural guarantees. Second, the legal position of any minority staff (women or possibly others) is even weaker due to the compounded effect of contextual stereotyping at these workplaces. Based on our analysis of the "goodness" intentions of administrative laws to implement gender equity, the autonomy structure and current administrative rules at these Centers seem to have a disproportionate impact on gender equity. In my opinion, such an impact over an already weak legal position for the staff in general and women in particular, would have substantive effects on the employment relationship. The shift in power in these international work places strengthens discriminatory practices, empowers abuse of power under a legal structure, and thus perpetuates a form of governance that lacks the basic foundations of legitimacy such as checks and balances.

To secure some of the global public goods to those whose interests we serve, CGIAR Centers may want to reflect on such practices and implement more effective accountability standards or subject their administrative laws to public scrutiny to prove that they live up to what they preach.

