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Extreme poverty and human rights

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on extreme poverty and human rights, Philip Alston, submitted in accordance with Human Rights Council resolution 26/3.

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Report of the Special Rapporteur on extreme poverty and human rights

Summary

The present report begins with an analysis of the confusing approaches to human rights taken by the World Bank in its legal policy, public relations, policy analysis, operations and safeguards. The Special Rapporteur then seeks to explain why the Bank has historically been averse to acknowledging and taking account of human rights, argues that the Bank needs a new approach and explores what differences that might make.

The Special Rapporteur concludes that the existing approach taken by the Bank to human rights is incoherent, counterproductive and unsustainable. For most purposes, the World Bank is a human rights-free zone. In its operational policies, in particular, it treats human rights more like an infectious disease than universal values and obligations. The biggest single obstacle to moving towards an appropriate approach is the anachronistic and inconsistent interpretation of the "political prohibition" contained in its Articles of Agreement. As a result, the Bank is unable to engage meaningfully with the international human rights framework, or to assist its member countries in complying with their own human rights obligations. That inhibits its ability to take adequate account of the social and political economy aspects of its work within countries and contradicts and undermines the consistent recognition by the international community of the integral relationship between human rights and development. It also prevents the Bank from putting into practice much of its own policy research and analysis, which points to the indispensability of the human rights dimensions of many core development issues.

The Special Rapporteur argues that what is needed is a transparent dialogue designed to generate an informed and nuanced policy that will avoid undoubted perils, while enabling the Bank and its members to make constructive and productive use of the universally accepted human rights framework. Whether the Bank ultimately maintains, adjusts or changes its existing policy, it is essential that the policy should be principled, compelling and transparent. The recommendations that follow provide some indication as to what a World Bank human rights policy might look like in practice.

Contents

I. Introduction[1]

1. The present report on the human rights policy of the World Bank[2] is submitted in accordance with Human Rights Council resolution 26/3.

2. In the context of a mandate dealing with extreme poverty and human rights, the World Bank is arguably the single most important international agency. Some might question this characterization on the grounds that the $40 billion or more that the Bank provided to borrowing countries in 2014 represents only a fraction of total private capital flows to developing countries from all multilateral and national development banks, bilateral donors and private investors. However, not only is the elimination of extreme poverty one of its two central goals, its research is more voluminous and influential than that of its peers. It remains the key standard-setter in many areas, its knowledge and expertise are often crucial and its seal of approval frequently encourages the participation of other donors or investors.

3. The Special Rapporteur begins his report by looking at how human rights are approached within the following contexts in the work of the Bank: legal policy, public relations, policy analysis, operations and safeguards. He then seeks to explain the reasons for the historical aversion of the Bank to human rights, argues that it needs a new approach and explores what difference that might make. Finally, he reflects on what a World Bank policy on human rights might look like.

4. The thrust of the report is that the existing approach of the Bank is incoherent, counterproductive and unsustainable. It is based on outdated legal analysis and shaped by deep misperceptions of what a human rights policy would require. What is needed is a transparent dialogue designed to generate an informed and nuanced policy that will avoid undoubted perils, while enabling the Bank and its members to make constructive and productive use of the universally accepted human rights framework.

II. Human rights policy of the World Bank

5. The World Bank does not have a single comprehensive human rights policy. Rather, it has many different and competing approaches to the issue. For analytical purposes it can be seen to have adopted different human rights policies in each of the following contexts: legal policy, public relations, policy analysis, operations and safeguards.

A. Legal policy

6. The Articles of Agreement of the International Bank for Reconstruction and Development (IBRD) contain several provisions commonly referred to as the "political prohibition". Most importantly, article IV, section 10 provides that: "The Bank and its officers shall not interfere in the political affairs of any member, …

[1] The Special Rapporteur is grateful to Christiaan van Veen for his invaluable assistance in the preparation of this report.

[2] The present report focuses only on the policies of the International Bank for Reconstruction and Development and the International Development Association, jointly referred to hereafter as the World Bank or the Bank.

Only economic considerations shall be relevant to their decisions …". Successive General Counsels of the Bank have provided legal interpretations that have sought to distinguish legitimate "economic considerations" from inappropriate "political" factors.

7. In the mid-1960s, the General Assembly characterized the policies of apartheid in southern Africa and the colonial policies of Portugal as violations of the Charter of the United Nations and crimes against humanity. It requested United Nations specialized agencies, including IBRD and the International Monetary Fund, to deny assistance to those Governments. In 1967, the Bank refused to comply with the relevant resolutions, citing a legal opinion that such action would be political rather than economic.

8. Beginning in the late 1980s, the General Counsel of the Bank, Ibrahim Shihata, revisited the human rights issue. In a 1990 opinion he considered the question of governance[3] and in 1995, the political prohibition.[4] Although the latter opinion recognized the indivisibility of human rights, it drew a clear distinction between the two sets of rights. The General Counsel argued that, although the operations of the Bank already promoted a broad range of economic, social and cultural rights, its Articles of Agreement would normally prohibit it from promoting political rights. He left open the possibility of an exception in that latter regard when "an extensive violation of political rights which takes pervasive proportions" had "significant economic effects".[4]

9. In January 2006, on his last day in office, the then General Counsel, Roberto Dañino, circulated a legal opinion on the Bank and human rights. Without explicitly claiming that the Bank had human rights obligations, the opinion charted a new approach. First, the Bank could take any type of human rights into account, provided there was economic impact or relevance. Second, where violations or non-fulfilment of human rights obligations had an economic impact, the Bank should take them into account. Third, the Bank might assist member countries to meet their legal obligations regarding human rights and should be broadly supportive of such commitments where they had an economic impact or relevance.[5]

10. In October 2006, the next General Counsel, Ana Palacio, characterized her predecessor's interpretation as "allowing, but not mandating, action on the part of the Bank in relation to human rights." That is more restrictive than the actual conclusion of Mr. Dañino that there are instances in which the Bank should take human rights into account. Ms. Palacio accepted that the Bank had a role in supporting its members to fulfil their human rights obligations. Her analysis began with an affirmative reference to Mr. Shihata's approach and she added that "human rights would not be the basis for an increase in Bank conditionalities, nor should

[3] Ibrahim Shihata, "Issues of 'governance' in borrowing members — the extent of their relevance under the Bank's Articles of Agreement", legal memorandum of the General Counsel of the World Bank Group, 21 December 1990.

[4] Legal opinion of the General Counsel of the World Bank Group, 11 July 1995, in Ibrahim Shihata, *The World Bank Legal Papers* (The Hague, Martinus Nijhoff Publishers, 2000).

[5] See Roberto Dañino, "The legal aspects of the World Bank's work on human rights: some preliminary thoughts", in *Human Rights and Development: Towards Mutual Reinforcement*, Philip Alston and Mary Robinson, eds. (Oxford University Press, 2005).

they be seen as an agenda that could present an obstacle for disbursement or increase the cost of doing business".[6]

11. In a letter responding to a suggestion by two special procedures mandate holders in 2012, that Bank financing should support the human rights obligations of States, the current General Counsel, Anne-Marie Leroy, and the Vice-President for the Africa Region, Makhtar Diop, stated that "only economic considerations — meaning those that have a direct and obvious economic effect relevant to the Bank's work — can be taken into account in decisions by the Bank and its officers. Therefore, in our view, your suggestion goes beyond the bounds of the Bank's institutional mandate."[7] In a subsequent letter, Ms. Leroy sought to distance the Bank from Mr. Dañino's opinion by noting that it "was neither presented to, nor endorsed by, the Bank's Board of Executive Directors and therefore, at this stage, it should not be represented as Bank policy."[8]

12. As the legal approach of the World Bank to human rights currently stands, the most problematic aspect is that it is based on double standards. On the one hand, successive General Counsels have found convincing rationales to facilitate the wish of the management to work on issues as diverse as corruption, money laundering, terrorist financing, governance and the rule of law, but on the other hand, human rights remains on a very short blacklist, along with support for the military and intelligence services, as issues that are currently classified as being predominantly political and thus prohibited.

13. The most telling example of that double standard is to be found in a 2012 opinion by the General Counsel justifying the involvement of the Bank in the criminal justice sector.[9] It is a carefully argued analysis that invokes Mr. Shihata's opinions extensively in order to reach the conclusion that the mandate of the Bank permits it to work in that area "provided that proposed interventions are grounded in an appropriate and objective economic rationale and are structured so as to avoid interference in the political affairs of a member country." Because the issues raised and many of the matters dealt with have so much in common with human rights, it is instructive to examine the methodology and arguments employed and to consider the extent to which they could be applied equally to human rights.

14. The 2012 opinion relies on a broad range of sources. Previous legal opinions are invoked extensively but selectively. The practice of other multilateral development banks and of multilateral and bilateral development agencies are all considered to be pertinent. Finally, independent scholarship and Bank research are both cited to bolster the legal arguments made.

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[6] Ana Palacio, "The way forward: human rights and the World Bank", *Development Outreach*, vol. 8, No. 2 (October 2006).

[7] Letter from Anne-Marie Leroy and Makhtar Diop to the Special Rapporteur on the right to food and the Independent Expert on the effects of foreign debt and other international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, 9 October 2012. Available from http://spdb.ohchr.org/hrdb/22nd/OTH_09.10.12_(7.2012).pdf.

[8] Letter from Anne-Marie Leroy to the Special Rapporteur on the right to food and the Independent Expert on the effects of foreign debt and other international financial obligations of States, 16 January 2013. Available from http://spdb.ohchr.org/hrdb/22nd/World_Bank_16.01.13_(7.2012).pdf.

[9] Anne-Marie Leroy, "Legal note on Bank involvement in the criminal justice sector", 9 February 2012.

15. The opinion begins with definitions. First, the criminal justice sector is expansively defined, thus potentially enabling the Bank to undertake broad-ranging activities under that rubric. The definition includes “human rights and ombudsman’s offices,” but in practice those will presumably fall foul of the political prohibition.

16. Next is the definition of development. In contrast to the notion current over 70 years ago when the Articles of Agreement were adopted, development today is said to encompass “broad areas of human development, social development, education, protection of global public goods, governance and institutions, as well as issues such as inclusion and cohesion, participation, accountability and equity.” But not, apparently, human rights, which are somehow different.

17. The author of the opinion then seeks to demonstrate that economic considerations demand a focus on criminal justice. It is argued that crime and violence impede economic development, reduce investment and employment growth and make countries less competitive. They undermine strategies to increase levels of social and human capital, which are key to economic growth, divert funds away from development and other productive activities, weaken the economies of fragile States and can exacerbate conflict. They also disproportionately affect the poor, by undermining employment, reducing mobility and hindering access to basic services.

18. The next step is to demonstrate that criminal justice interventions will not violate the political prohibition. While acknowledging that “most development efforts” have a “political dimension,” a narrow interpretation is adopted, according to which the Bank cannot involve “itself in the partisan politics or ideological disputes that affect its member countries”. Inappropriate involvement is said to include “favoring political factions, parties or candidates in elections,” or “endorsing or mandating a particular form of government, political bloc or political ideology.”

19. Finally, the author of the opinion acknowledges that there will always be a risk that criminal justice interventions might cross the line into the essentially political realm. A range of methods to manage such risk are thus identified, such as promoting “country ownership” of the activity, including through consultation with non-State stakeholders; avoiding involvement in enforcement on specific cases; undertaking careful risk analysis; and setting up a special review mechanism if particular concerns arise.

20. In effect, although the Bank’s lawyers might be expected to strenuously dispute the proposition, the template just described could be applied in a very similar fashion to justify a human rights policy. Previous legal opinions have left space for the crafting of such a policy, other multilateral development banks and most multilateral and bilateral development agencies have human rights policies and there has been voluminous scholarly research on those issues. The General Counsel’s definition of development for the purposes of interpreting the mandate clearly accommodates human rights. There are innumerable ways in which human rights violations have major economic impacts and the poor are disproportionately affected. And, just as with the criminal justice sector, there will be some aspects of some rights which would fall foul of the political prohibition, thus requiring a series of risk management strategies to avoid such problems.

21. The adoption of an expansive criminal justice policy, while refusing to engage with human rights, leads to a highly artificial separation of the two issues. One

example is the explanation in the opinion of activities that would be inappropriate by reference to "international due process standards," a concept that has little meaning unless interpreted as incorporating human rights standards.

B. Public relations policy

22. Since the early 1990s, the Bank has made numerous public relations statements affirming the importance of human rights. It has often observed that human rights and development are interrelated, insisted that its projects contribute to the fulfilment of economic, social and cultural rights, argued that its work on governance contributes to an institutional environment in which human rights can thrive, and claimed that it consistently applies "human rights principles" such as participation, in its operations. Those claims, however, are usually made in the abstract, without detailed analysis or supporting evidence.[10] While the Nordic Trust Fund, established within the Bank, has succeeded in facilitating a more sophisticated debate, its outputs have yet to bring changes to the actual practice of the Bank.

C. Policy analyses

23. There are, however, some Bank studies which enter into detail on the issue of human rights, such as those in its annual flagship publication, the *World Development Report* dealing with issues such as equity, gender equality, conflict resolution, HIV/AIDS and disability. In 2006 the *World Development Report* urged that equity should be a central concern in the design and implementation of development policy. It noted that the "international human rights regime testifies to the shared belief that all should have equal rights and be spared extreme deprivation," and acknowledged various other links between human rights and equity.[11] In 2011, the *World Development Report* focused on conflict, security and development. The message of the report was that strengthening legitimate institutions and governance to provide security, justice and jobs for citizens is crucial to breaking cycles of violence in fragile countries. Building confidence is a major challenge and one that requires the protection of human rights. Detailed suggestions are explored for achieving that goal.[12]

24. The main message of the *World Development Report* in 2012 on gender equality and development was that gender equality was both a core development objective and "smart economics". It mattered because "the ability to live the life of one's own choosing and be spared from absolute deprivation is a basic human right." Development is defined as "a process of expanding freedoms equally for all people," and international and regional human rights instruments crucial in achieving gender equality. The report described the Convention on the Elimination

[10] See, for example, Anupama Dokeniya "Rights and development", 16 May 2012. Available from http://blogs.worldbank.org/publicsphere/node/5989.

[11] World Bank, *World Development Report 2006: Equity and Development* (Washington, D.C., 2005).

[12] World Bank, *World Development Report 2011: Conflict, Security and Development* (Washington, D.C., 2011).

of All Forms of Discrimination against Women as "the primary international vehicle for monitoring and advocating gender equality."[13]

25. Since 2011, the Bank has published three major studies on populations at risk of HIV/AIDS. All three take the approach that assisting those vulnerable groups is a human rights imperative. They also contain explicit references to the relevant human rights norms.[14]

26. In the *World Report on Disability*, jointly published by the Bank and the World Health Organization, the leaders of the two organizations stated that the report aimed to "provide the evidence for innovative policies and programmes that can improve the lives of people with disabilities, and facilitate implementation of the United Nations Convention on the Rights of Persons with Disabilities … This landmark international treaty reinforced our understanding of disability as a human rights and development priority."[15] The report itself is full of practical guidance about how international human rights law is relevant to dealing with disability issues in development.

27. A striking example of a publication dealing with human rights is the report, published jointly by the Bank and the Organization for Economic Cooperation and Development (OECD) in 2013, entitled *Integrating Human Rights into Development: Donor Approaches, Experiences, and Challenges*. It makes a powerful case for the integration of human rights and development, although, as with most such publications, it includes at the front of the book a caveat that "the findings, interpretations, and conclusions expressed in this work do not necessarily reflect the views of the World Bank, its Board of Executive Directors, or the governments they represent."[16]

28. Other valuable research on human rights topics has also been published under World Bank auspices with funds from the Nordic Trust Fund, specially set up for the purpose.[17] The Special Rapporteur is not, however, aware of significant internal policy impact resulting from those publications.

D. Bank operations

29. Despite the powerful arguments marshalled in Bank publications for acknowledging the links between human rights and various development objectives, Bank-financed projects and programmes go to great lengths to avoid any operational

[13] World Bank, *World Development Report 2012: Gender Equality and Development* (Washington, D.C., 2011).

[14] World Bank, *The Global HIV Epidemics among Sex Workers* (2013); *The Global HIV Epidemics among Men Who Have Sex with Men* (2011); and *The Global HIV Epidemics among People Who Inject Drugs* (2013).

[15] World Health Organization and World Bank, *World Report on Disability* (Geneva, World Health Organization, 2011).

[16] World Bank and OECD, *Integrating Human Rights into Development: Donor Approaches, Experiences, and Challenges* (Washington, D.C., 2013).

[17] See, for example, Varun Gauri and Siri Gloppen, "Human rights-based approaches to development: concepts, evidence, and policy" *Polity*, vol. 44, No. 4 (October 2012); Daniel Brinks and Varun Gauri, "The law's majestic equality? The distributive impact of litigating social and economic rights", Policy research working paper No. 5999 (World Bank, 2012); and Salman M.A. Salman and Siobhán McInerney-Lankford, "The human right to water: legal and policy dimensions" (World Bank, 2004).

references to human rights. One case study out of many must suffice. It concerns gender-based violence, a phenomenon that is universally recognized as violating human rights.

30. The Special Rapporteur analysed 13 projects on gender-based violence that are part of a major Bank initiative on the issue and were approved between January 2012 and June 2015. None of the relevant project documents engages substantively with the human rights dimensions of gender-based violence. Passing references can be found to the Convention on the Elimination of All Forms of Discrimination against Women or the Universal Declaration of Human Rights, but no analysis of the relevant rights and obligations is provided and the provisions are not linked to the project at hand.[18] In fact, even the generic terms "human rights" and "rights" are rarely used and when they are, no elaboration is provided. The intended project beneficiaries are presented not as rights holders, but as clients or service recipients. The borrowing State bears contractual responsibilities towards the Bank, but no reference is made to its international or domestic human rights obligations. No reference is made to responsibility for gender-based violence by State actors, such as police or health-care workers, despite the frequency of such problems, and no reliance is ever placed upon the detailed human rights-based frameworks for tackling gender-based violence drawn up by the Committee on the Elimination of Discrimination against Women and various other international human rights actors, despite the fact that the Convention has been almost universally ratified.

31. The systematic avoidance of human rights language, frameworks and institutions in the context of Bank projects on gender-based violence is replicated in most other areas of its activities,[19] although there have been some exceptions over past decades in areas such as HIV/AIDS and some gender-related projects.

E. Safeguard policies

32. One context in which the relevance of human rights might have been expected to be acknowledged is the environmental and social "safeguard" policies of the Bank. However, the current safeguards contain no explicit human rights policy and the sole reference to human rights occurs in operational policy 4.10 on indigenous peoples.[20] Human rights have sometimes had an indirect influence on the interpretation of the safeguard policies by the World Bank Inspection Panel, but the practice in that regard has been inconsistent and piecemeal.[21]

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[18] See, for example, projects P130819 (HN safer municipalities), Honduras, approved on 13 December 2012; P132768 (Pernambuco equity and inclusive growth development policy loan), Brazil, approved on 25 June 2013; and P145605 (enhancing fiscal capacity to promote shared prosperity development policy loan), Colombia, approved on 6 September 2013.

[19] Kirk Herbertson, Kim Thompson and Robert Goodland, *A Roadmap for Integrating Human Rights into the World Bank Group* (Washington D.C., World Resources Institute, 2010) and Galit A. Sarfaty, *Values in Translation: Human Rights and the Culture of the World Bank* (Stanford, California, Stanford University Press, 2012).

[20] Operational policy 4.10 on indigenous peoples begins by stating that the policy "contributes to the Bank's mission of poverty reduction and sustainable development by ensuring that the development process fully respects the dignity, human rights, economies, and cultures of indigenous peoples".

[21] Adam McBeth, *International Economic Actors and Human Rights* (Abingdon, United Kingdom, Routledge, 2010).

33. Safeguards for investment project financing within a new environmental and social framework are expected to be adopted by the end of 2015. In late 2014, 28 special procedures mandate holders addressed a lengthy and detailed analysis of the July 2014 draft framework to the World Bank.[22] The Special Rapporteur notes that his own position is adequately summarized in the letter, in which the authors state that "the document seems to go out of its way to avoid any meaningful references to human rights and international human rights law, except for passing references in the vision statement and environmental and social standard (ESS) 7." Unfortunately, the second draft, which is about to be released, is no improvement in that regard, despite voluminous submissions by large numbers of stakeholders calling upon the Bank to take account of human rights.[23]

III. Explaining the aversion of the World Bank to human rights

34. Before considering why the Bank should change its approach, it is essential to seek to understand why there is currently such an aversion to human rights within the management of the Bank. Six factors would seem to be especially important.

Institutional culture

35. From its creation in 1944, the Bank has sought to present itself as a functional, technical agency and hence one that is above the political fray. That was deemed essential to avoid the appearance of choosing sides in the aftermath of the Second World War and subsequently in the fraught climate of the cold war. That technocratic image is mirrored in the internal culture of the Bank, which is dominated by economists. That in turn affects how institutional goals are shaped and justifications framed. To become relevant, human rights factors need to be presented in terms of economic impact, rather than as matters of values, law, or dignity.[24] Just as human rights proponents are uncomfortable with the consequentialism of economics, economists often perceive rights as being rigid, anti-market and overly State-centric. The concern is that the engagement of the Bank with human rights would bring about a radical paradigm shift with unknown consequences.[25]

36. Another institutional element is the pressure to approve loans, or as a famous Bank report put it, to "push money out the door".[26] Despite official denials, those pressures continue. In such a setting, it is unsurprising that some see social safeguards and even more so human rights as factors likely to raise costs and delay

[22] Letter from 28 special procedures mandate holders to the President of the World Bank, 12 December 2014. Available from www.ohchr.org/Documents/Issues/EPoverty/WorldBank.pdf.

[23] For all official documentation on the consultation on the draft framework, see http://consultations.worldbank.org/consultation/review-and-update-world-bank-safeguard-policies.

[24] See, for example, Sarfaty, V*alues in Translation: Human Rights and the Culture of the World Bank* and Nordic Trust Fund and World Bank, "Human rights and economics: tensions and positive relationships" (2012).

[25] Mac Darrow, "The Millennium Development Goals: milestones or millstones? Human rights priorities for the post-2015 development agenda", *Yale Human Rights and Development Law Journal*, vol. 15, No. 1 (2012).

[26] W. Wapenhans, "Effective implementation: key to development impact", report of the Portfolio Management Task Force (Washington, D.C., World Bank, 1992).

lending. An internal Bank report observed that management is often uninterested in, or resistant to, work on safeguards and treats it as a box to be checked.[27] However, minimizing safeguard concerns enhances the likelihood of flawed project design, which neglects elements important for success, overlooks likely opposition and resistance, creates ill will and damages the credibility of the Bank. It also assumes, contrary to the findings of a report by the Independent Evaluation Group, that the costs of safeguards outweigh their benefits.[28]

Misplaced legalism

37. The goals and policies of the Bank have changed radically since 1944. The Articles of Agreement contain no mention of either of its current proclaimed "twin goals" of ending extreme poverty and promoting shared prosperity. The General Counsels have played a key role in the necessarily dynamic interpretation of the Articles required to reflect and justify that evolution.

38. Interpretation of the Articles is decided by the Executive Directors by a simple majority vote, with the possibility of appeal to the Board of Governors.[29] In practice, legal opinions by the General Counsel have provided the basis for most such interpretations. General Counsels also provide regular advice to the Executive Directors and the President and senior management, including on interpretation of the mandate.[30] The most influential General Counsels have acknowledged the need to adopt a purposive or teleological approach.[31]

39. The principal exception to that general rule has been the issue of human rights. As theories of development have changed and the Bank has confronted new challenges, legal counsels have had no difficulty in justifying the engagement of the Bank with issues such as corruption, the rule of law, environmental degradation and other novel issues. Alone among those new issues, human rights is classified as political rather than economic, despite the view of a former General Counsel that "human rights are an intrinsic part of the Bank's mission".[5] Today, it is still the Legal Department that takes the lead in "policing" the human rights taboo within the Bank.[32] That is said to apply even within the discussions in the Executive Board.

40. It is particularly striking that one of the most complex and contentious issues confronting the Bank in the twenty-first century, namely a human rights policy, is resolved not on the basis of any detailed legal or empirical analysis, or of transparent debates within the Bank, but on the basis of a legal opinion rooted in the politics of the last century and based on a mode of legal analysis that has long been considered to be unjustified and unsustainable in relation to almost every other issue.

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[27] World Bank Internal Audit Department, "Advisory review of the Bank's safeguard risk management" (16 June 2014).

[28] Independent Evaluation Group, World Bank, *Safeguards and Sustainability Policies in a Changing World: an Independent Evaluation of World Bank Group Experience* (Washington D.C., World Bank, 2010).

[29] IBRD Articles of Agreement, article IX. See also Aron Broches, *Selected Essays: World Bank, ICSID, and Other Subjects of Public and Private International Law* (Dordrecht, Netherlands, Martinus Nijhoff Publishers, 1995).

[30] Shihata, *The World Bank Legal Papers*.

[31] See, for example, Shihata, *The World Bank Legal Papers* and Broches *Selected Essays*.

[32] See Sarfaty, *Values in Translation*.

Cultural relativism

41. Ironically, given the widespread perception that the Bank is dominated by Western interests and values, the argument is often heard that the Bank needs to avoid human rights discourse because it may be perceived as imposing Western values on non-Western countries. Thus, the authors of a report on gender and human rights-based approaches in development felt the need to address such concerns in a separate annex.[33] While the debate over cultural relativism is a very vibrant one in both political and scholarly circles, the justifiable issue of concern is not the basic universality of the standards, which has long been reaffirmed, but the degree of cultural appropriateness shown in their application.[34] For the Bank to invoke a relativist justification to refuse all engagement with the universal standards is contrary to international law. Particular interpretations of human rights will always be contested, but so too will definitions of poverty, the rule of law, corruption and a great many other notions which lie at the heart of its work. Avoidance is no substitute for sophisticated and nuanced engagement.

Shadow of sanctions

42. The Bank has a long, and generally unhappy, history in which human rights concerns have been linked to demands for it to impose sanctions on client States. Such demands have come from many sources, including the General Assembly, the United States of America and other Governments and a wide range of non-governmental organizations (NGOs). In principle, the Bank has rejected most such calls on the grounds that they involve politics rather than economics. In practice, however, it has occasionally succumbed to political pressure and delayed or withheld funds, albeit insisting that its actions did not amount to sanctioning.[35]

43. An especially problematic, if well-intentioned, case was the decision in February 2014 to delay a $90 million health project loan to Uganda after the country adopted a draconian anti-homosexuality act. The Bank suggested that it had acted only to ensure that the health project would not be adversely affected by the act. However, the President of the Bank explained that he had acted because he was not convinced that the loan would not lead to discrimination or even endangerment of the lesbian, gay, bisexual and transgender community.

44. The President sought to make the case that serious institutional discrimination had economic costs that the Bank could legitimately take into account, but the same argument applies to equally problematic forms of discrimination against different groups in a large number of countries in which the Bank continues to operate, and in response to which no action has been taken. No convincing justification was put forward by the Bank as to why Uganda alone was singled out among the various countries that have laws that criminalize homosexuality. No explanation was given

[33] World Bank and Nordic Trust Fund, “Report of gender and human rights-based approaches in development” (2013).

[34] In its strongest form, cultural relativism claims “that no transcendent or transcultural ideas of right can be found or agreed on, and hence that no culture or state … is justified in attempting to impose on other cultures or states what must be understood to be ideas associated particularly with it.” Philip Alston and Ryan Goodman, *International Human Rights* (Oxford University Press, 2012).

[35] The best-known cases relate to Chile in 1972, Kenya in 1991 and again in 2006, Indonesia in 1999 and the Russian Federation in 2000.

as to why discrimination against lesbian, gay, bisexual, transgender and intersex communities was the trigger for action, rather than often deeply entrenched official discrimination against various other groups. Nor was the action based on any policy document that had previously been elaborated. And finally, if the Bank itself had been directly implicated in the issue at hand, urgent remedial action would have been much more readily defensible, but it was not.

45. While it was clearly not intended as such, the most significant impact of the decision was probably to convince an even larger number of countries that the Bank should indeed be kept away from human rights issues for fear that it would start to apply sanctions more broadly and in an equally unpredictable and ad hoc manner.

46. The challenge now is to ensure that there is a silver lining to that incident. The Bank needs to elaborate a nuanced policy which will avoid such incidents in the future; eschew sanctions of that type except in the most extreme and predefined situations; and develop a range of policies that can promote respect for human rights in a constructive manner consistent with its overall policy objectives and its mandate.

Turning the World Bank into a human rights cop

47. On various occasions, senior Bank officials have warned of the dire consequences that would follow if the Bank were to become some sort of global policeman, responsible for enforcing respect for human rights by its client Governments. Because of the sanctions mentality described above, that fear is not altogether unfounded.

48. There is a vast difference, however, between having a carefully tailored human rights policy and becoming an enforcer of rights. Many other international organizations have adopted such policies; none of them have become enforcers. The established international human rights regime exists to engage with States that are accused of violations and to find ways to encourage, facilitate and promote compliance with international norms. There is no reason why that task would or should move to the Bank if it were to acknowledge that human rights are also relevant to its operations. There are many ways in which the Bank can encourage or even assist States to design policies and projects that are consistent with the obligations that those States have voluntarily undertaken through the ratification of binding international treaties. It is especially noteworthy in this respect that the Bank safeguards already require it to take account of the international environmental treaty obligations of a country when undertaking an environmental assessment and it has managed to do that without giving rise to undue controversy.[36]

Competition with other lenders

49. It is often suggested that obliging the Bank to take human rights into account would place it at a disadvantage to other lenders, which might not do so. In 2006, the then President of the Bank, Paul Wolfowitz, criticized the Government and banks of China for not attaching human rights and environmental standards to their loans to Africa. In 2011, China overtook the Bank in the volume of its development lending. The creation of new multilateral investment banks and the growth of national development banks in countries like Brazil and India, means ever more

[36] See, for example, operational policies 4.01 and 4.36.

competition in the market for lenders. While the World Bank has always downplayed such suggestions, most commentators suggest that those developments have placed it under competitive pressure.

50. In fact, if the major new banks do not adopt appropriate social protection policies, there would be good reason to assume that the Bank will be less able to compete in terms of the time taken for project planning, the conditions offered to borrowers and the speed of disbursement. Both the New Development Bank, which proclaims itself "as an alternative to the existing US-dominated World Bank and International Monetary Fund",[37] and the Asian Infrastructure Investment Bank were set up in 2015. The Articles of Agreement of both banks reproduce the same political prohibition clause as is contained in the Articles of Agreement of the World Bank.[38] The Asian Infrastructure Investment Bank is committed to addressing environmental and social impacts, but it remains to be seen what type of standards and safeguards will be adopted and how, if at all, human rights will be factored in. Those are issues that will warrant the most careful scrutiny going forward.

51. The immediate question for the World Bank is whether the best strategy is to compete with the new lenders in a race to the bottom or to adopt a principled stance. Despite obvious temptations, there are strong arguments for the latter approach. Strong safeguards, as noted above, ensure sound planning, reduce subsequent problems, facilitate public support, minimize reputational costs for the lender and facilitate better overall outcomes. Loans that are made in secrecy and without such precautions carry with them the seeds of eventual disaster for both the borrower and the lender. The real comparative advantage for the World Bank lies in underwriting high-quality projects and maintaining its role as an innovator, rather than in a race to lend more at whatever cost. Of course, none of that means that the Bank should not explore efficiency gains that might be achieved through means other than cutting standards and avoiding human rights considerations.

IV. Time for change: why the World Bank needs a new approach to human rights

52. Based on the preceding review, the following propositions seem to encapsulate the actual practice of the World Bank: (a) pay lip service to human rights in official settings, as long as there are no consequences; (b) acknowledge the theoretical significance of human rights in studies and analyses of issues in relation to which they are incontestably relevant; (c) ensure that, as a general rule, the Bank does not engage with any aspect of human rights in its actual operations and lending; and (d) be prepared to make exceptions when political imperatives require it, even if that involves a high degree of inconsistency.

53. There are many reasons why a new approach is needed. The following six seem especially compelling.

[37] See http://ndbbrics.org/.

[38] See article 13 (e), Articles of Agreement of the New Development Bank, available from http://ndbbrics.org/agreement.html and article 31 (2), Articles of Agreement of the Asian Infrastructure Investment Bank, available from www.aiibank.org/uploadfile/2015/0629/20150629094900288.pdf.

54. First, an inconsistent, ad hoc and opaque policy of the type that exists today is in no one's interests. The world has changed dramatically since the 1980s and human rights are an unavoidable feature of national and international policies and debates. It is illusory to believe that the Bank can be fully effective without any meaningful engagement with that entire field of activity. By treating human rights as a taboo issue, the Bank has ensured that a whole range of issues that are universally acknowledged to be crucial to the development and poverty eradication agendas cannot be openly addressed or factored into its work.[39] As noted below, the valiant effort to rely upon surrogate terms can never be an adequate substitute for engaging with the human rights framework and norms. The result is a staff and management with relatively little understanding of the complexity of the international human rights regime, which in turn results in unfounded fears, avoidance of debates that would otherwise be a matter of course, a poor sense of how to respond when human rights problems force themselves onto the agenda and the absence of a credible Bank voice when those issues are discussed in other settings.

55. Second, the policies of the Bank need to reflect the current status of international human rights law, rather than the situation in the 1960s or the 1980s, when its existing policies were frozen into place. Even in the late 1980s, international human rights law was in its infancy and remained relatively contested. There were relatively few human rights treaties and many States had ratified none of them. The cold war dominated and distorted discussions. By contrast, today every country in the world is a party to multiple international human rights treaties and all engage voluntarily in international forums in which they explain and justify their human rights policies and practices. In short, it might have been justified to suggest in the late 1980s that much of the human rights regime was of a political nature. Today that is no longer the case and human rights law is an integral part of the international system.

56. Third, rather than being an outlier, the Bank needs to bring its approach into line with that of almost every other major international organization. In the mid-1980s, the Bank was one of many international organizations that were reluctant to engage with the human rights regime. The easiest example to cite is the United Nations Children's Fund (UNICEF), which gradually changed from a policy of ignoring rights issues during the 1980s to become an agency devoted to promoting the provisions of the Convention on the Rights of the Child. The same transition has occurred in many other international organizations, so that by 2013 the Secretary-General could adopt a "Human Rights Up Front" initiative, in which he called upon the United Nations, its agencies, funds and programmes to treat human rights as a system-wide core responsibility.

57. As of January 2015, the United Nations Development Programme (UNDP) officially recognized "the centrality of human rights to [its goals] … and is committed to supporting 'universal respect for, and observance of, human rights and fundamental freedoms for all.'" It "shall … refrain from providing support for activities that may contribute to violations of a State's human rights obligations and the core international human rights treaties …". The UNDP policy does, however, contain provisions that seek to limit its human rights obligations. The policy says

[39] See Independent Evaluation Group, World Bank, *Results and Performance of the World Bank Group 2014* (Washington D.C., World Bank, 2015).

that it will support State efforts meet human rights obligations "as requested," notes that UNDP does not have a human rights "monitoring role" and notes that it will monitor its own compliance with its policies as a matter of "due diligence".[40] That is a formulation that has been carefully crafted both to acknowledge the centrality of human rights, but also to allay any concerns of Governments and officials that the organization is in the business of human rights enforcement.

58. Even in comparison with other multilateral development banks, the World Bank is still an outlier. A recent Bank study concluded that "[m]ost of the other MDBs refer to 'human rights' in supportive aspirational terms while recognizing the responsibility of clients to respect human rights." The World Bank, it noted, does so solely in relation to indigenous peoples.[41] Thus, while the World Bank was in good company in the 1980s in being wary of incorporating human rights standards into its work, it now stands almost alone, along with the International Monetary Fund, in insisting that human rights are matters of politics which it must, as a matter of legal principle, avoid, rather than being an integral part of the international legal order.

59. Fourth, the Bank needs to bring its operational policies into line with mainstream development theory, especially its own. In 1999, Amartya Sen published a landmark study entitled *Development as Freedom*, based on lectures given at the Bank. Sen made a powerful case that freedom and the enjoyment of a range of rights were integral to achieving meaningful development. More recently, William Easterly has argued that "the cause of poverty is the absence of political and economic rights, the absence of a free political and economic system that would find the technical solutions to the poor's problems". He dismissed policies that seek to artificially separate human rights from development as technocratic illusions.[42] The Bank itself has often paid lip service to the consensus that has emerged since the end of the cold war that recognizes that "democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing," as proclaimed in the Vienna Declaration and Programme of Action, adopted by consensus by 171 States in 1993. By staunchly maintaining the technocratic illusion, not in its conceptual work, but in its operations where it really matters, the Bank has not only placed itself firmly outside mainstream development thinking and policies formally endorsed by all States, but perhaps more problematically has sent the message that rights and development can, and in its own case must, be kept separate. The flow-on effect of that negative example cannot be underestimated;

60. Fifth, the Bank needs at least a convincing due diligence policy to enable it to adjust or reject projects that would otherwise lead to, or support, human rights violations. Its safeguard policies have long been referred to as "do-no-harm" policies, but their very limited coverage in terms of the full gamut of the human rights obligations of States has meant that many serious violations are alleged to have occurred in the context of projects funded by the Bank.[43] The Special

[40] UNDP, "Social and environmental standards" (New York, 2014).

[41] World Bank, "Comparative review of multilateral development bank safeguard systems" (May 2015).

[42] William Easterly, *The Tyranny of Experts: Economists, Dictators, and the Forgotten Rights of the Poor* (New York, Basic Books, 2013).

[43] See International Consortium of Investigative Journalists project, "Evicted and abandoned: the World Bank's broken promise to the poor", available from www.icij.org/project/world-bank and Human Rights Watch, "At your own risk: reprisals against critics of World Bank Group projects" (June 2015) and *Waiting Here for Death: Displacement and 'Villagization' in Ethiopia's Gambella Region* (2012).

Rapporteur is in no position to judge the accuracy of any particular allegations of rights violations and nor is it necessary to do so in the present report. Suffice it to note that the Bank's own internal reports have made clear that existing safeguard arrangements have often proved to be inadequate. Reports by the Inspection Panel have highlighted significant problems in specific projects and a report by the Internal Audit Department on resettlement programmes has revealed serious systemic deficiencies.[44] To its credit, the Bank responded to the latter by announcing extensive reforms.[45] Nonetheless, those evaluation reports provide powerful evidence of the need for a more sustained and better integrated approach, reflecting the full range of international human rights standards rather than the static list of specific concerns that are currently singled out for monitoring. Integrating human rights into operational policies is necessary to comply with the Bank's aim of doing no harm.

61. Sixth, by refusing to take account of any information emanating from human rights sources, the Bank places itself in an artificial bubble, which excludes information that could greatly enrich its understanding of the situations and contexts in which it works. That includes especially the materials generated by human rights treaty bodies, special procedures mandate holders and the universal periodic review process of the Human Rights Council, as well as analyses generated by NGOs. It is striking that the Bank regularly consults religious leaders, such as the faith-based and religious leaders' round table it held in 2015, but has no comparable meetings with human rights experts.

V. What difference would a human rights policy make?

62. The two most common responses heard from Bank officials in reply to suggestions that it adopt a human rights policy are in direct contradiction to one another. The first takes various forms, suggesting that such a reform would transform the nature of the Bank's role, open up a Pandora's box, create political havoc or be generally unmanageable. The second is that the Bank already does so much to promote the realization of human rights that a change in policy would make little difference and is thus unnecessary. The argument tends to go something like this: by improving access to goods and services such as health care, education and water and by lifting people out of poverty, the Bank enhances the enjoyment of human rights in many countries. Its focus on governance improves human rights, its emphasis on consultation enhances people's right to participate and its publications often acknowledge the importance of human rights. At the end of the day, the Bank might use different language from that of human rights law, but its goals are the same.

63. The last of those claims is reflected in the following statement: "In fact, it has been possible to integrate human rights (using principles derived from the human rights framework) without an explicit approach, as can be seen in the work of some of the international financial institutions." But the very next sentence in the same

[44] See, for example, Inspection Panel, World Bank, report and recommendation, "Republic of Uzbekistan: second rural enterprise support project (P109126) and Additional financing for second rural enterprise support project (P126962)" (9 December 2013).

[45] World Bank, "Action plan: improving the management of safeguards and resettlement practices and outcomes" (4 March 2015), available from http://pubdocs.worldbank.org/pubdocs/publicdoc/2015/3/71481425483119932/action-plan-safeguards-resettlement.pdf.

report provides a compelling rebuttal of that very claim: "A potential shortcoming of such an approach is the risk of 'rhetorical repackaging,' which involves a superficial use of human rights terms in development without a full incorporation of human rights obligations or principles".[46]

64. The key question then is whether it actually matters if the Bank uses the language of human rights or opts instead for surrogates which are perceived to be less politically loaded or contentious. After all, if it advocates for gender equality, does it really matter if it uses the language of human rights, or whether any reference is made to United Nations standards or the work of bodies such as the Committee on the Elimination of Discrimination against Women? Or if the Bank works to expand access to water and sanitation, who cares if it characterizes them as human rights or not? Or if the Bank talks about problems relating to inclusion, participation, governance or the rule of law, does it matter if the issues are framed in "Bank speak" rather than in terms of the human rights obligations of the State? Or if the focus is on assisting those living in extreme poverty, why worry if the Bank assiduously stops short of talking about a human right to social protection? Surely, what counts are results, not scoring points for correct language usage?

65. However, the use of a human rights framework and discourse actually makes an enormous difference, which is of course precisely why the Bank is so resistant to using it and so attached to the never-ending search for surrogate language that enables it to get at the same concerns. Human rights provides a context and a detailed and balanced framework; it invokes the specific legal obligations that States have agreed upon in the various human rights treaties; it emphasizes that certain values are non-negotiable; it brings a degree of normative certainty; and it brings into the discussion the carefully negotiated elaborations of the meaning of specific rights that have emerged from decades of reflection, discussion and adjudication. Even more importantly, the language of rights recognizes the dignity and agency of all individuals (regardless of race, gender, social status, age, disability or any other distinguishing factor) and it is intentionally empowering. Whether in the home, the village, school or workplace, or in the political marketplace of ideas, it makes a difference if one is calling for the realization of agreed human rights to equality or to water, rather than merely making a general request or demand, and human rights are inseparable from the notion of accountability. Where rights are ignored or violated, there must be accountability.

66. That can be applied to the plight of those living in extreme poverty, who continue in most societies to be marginalized, stigmatized and the objects of condescension and charity. Recognition of their human rights does not guarantee them food, education, or health care, but it does acknowledge their dignity and agency, empower them and their advocates and provide a starting point for a meaningful debate over the allocation of societal resources in contexts in which their interests have been systematically ignored. It is indeed a technocratic illusion to assume that those dimensions can be ignored as long as bureaucratically directed projects and policies are well designed by the staff of the Bank. Similarly, it makes a huge difference if education reforms are premised on the right to education of the beneficiaries, as opposed to the good intentions or largesse of the World Bank.

[46] World Bank and OECD, *Integrating Human Rights into Development*.

67. Finally, it is not necessary in the present report to repeat the powerful ethical, legal and instrumentalist arguments that have been made in the extensive literature on integrating human rights into development policies and programmes. Ironically, nowhere have the arguments been more systematically explored than in the World Bank's own publication on integrating human rights into development, produced in collaboration with OECD.

VI. Conclusions and recommendations

A. Conclusions

68. **For most purposes, the World Bank is a human rights-free zone. In its operational policies, in particular, it treats human rights more like an infectious disease than universal values and obligations. The biggest single obstacle to moving towards an appropriate approach is the anachronistic and inconsistent interpretation of the "political prohibition" contained in its Articles of Agreement. As a result, the Bank is unable to engage meaningfully with the international human rights framework, or to assist its member countries in complying with their own human rights obligations. That inhibits its ability to take adequate account of the aspects of its work within countries relating to the social and political economy and contradicts and undermines the consistent recognition by the international community of the integral relationship between human rights and development. It also prevents the Bank from putting into practice much of its own policy research and analysis, which points to the indispensability of the human rights dimensions of many core development issues.**

69. **One of the most striking aspects of the relationship between the World Bank and human rights is how little thought has been given to what a human rights policy might look like in practice. As a result, the prospect has assumed bogeyman status and Bank officials regularly suggest that if there was such a policy in place, truly draconian consequences would follow. While it might be argued that such fears reflect either fear-mongering or a lack of understanding, or both, the real problem is that there has been nothing even vaguely resembling a blueprint on the table. Whether the Bank ultimately maintains, adjusts or changes its existing policy, it is essential that the policy should be principled, compelling and transparent. The recommendations that follow provide some indication as to what a human rights policy for the Bank could look like in practice.**

B. Recommendations

70. **No outsider can prescribe an ideal recipe for the Bank to follow in adopting a human rights policy. There are many options and paths that could reasonably be taken. The Bank is a very special organization and it will need a carefully tailored policy that takes adequate account of the many concerns that will undoubtedly be expressed. Most of all, there needs to be a transparent discussion, based on carefully thought-through proposals.**

71. **The initiative must come from the President and the staff, as has been the case in relation to almost every major policy initiative of this kind. The Executive Board cannot be expected to meaningfully debate an abstract proposition in the absence of a detailed exploratory analysis.**

72. **At the same time, member countries and especially Executive Board members, need to begin to grapple seriously with what a policy should look like, rather than simply saying they are for or against any such policy.**

73. **Governments especially need to explore ways to ensure that there is policy coherence between the positions they take in human rights forums and those they take in the context of the Bank.**

74. **The legitimate concerns held by Governments, Bank staff and other stakeholders need to be put on the table and fully discussed. There are certainly hard questions to be addressed. The experience of the many other international organizations which have adopted human rights policies over the past decade or more should greatly help to dispel many of the concerns expressed by Bank officials.**

75. **Diverse civil society actors also needs to think through in a more systematic and nuanced way what exactly they would like to see from a human rights initiative. In the view of the Special Rapporteur, it is debatable whether some of the roles that the Bank has been called upon to undertake in the past are appropriate. The Bank cannot be expected to carry the burden of the expectations of every human rights demand that might be made in a given situation. There are limits to what can reasonably be expected of it and there are legitimate questions related to its mandate and the respective roles that should be played by different actors. Placing unreasonable demands on the Bank merely reinforces the fears of those who are currently resisting change in that area.**

76. **The Bank needs to remove the roadblock that has been erected by its anachronistic, artificial and unjustifiable interpretation of the political prohibition contained in its Articles of Agreement. Admittedly, it is conceivable that the Bank might be tempted to pursue some issues using prohibited political approaches and would need to guard against them. However, positive measures designed to promote respect for obligations based on human rights treaties that are binding upon borrowing States would generally not cross such a line. Of course, much will depend on how the issue is approached, but a blanket prohibition on any such action as being political is wholly unwarranted. Just as the phrase "economic considerations" has been interpreted to accommodate Bank measures to combat corruption and to promote the rule of law and criminal justice reform, so too can the phrase accommodate a policy which takes account of the economic consequences of ignoring or violating human rights in a given project.**

77. **The starting point for any policy is to acknowledge that human rights are relevant to the twin goals of the Bank. Exactly how that relevance should manifest itself in different situations and policies is a matter to be explored and developed over time. It makes sense in such contexts to move with all deliberate speed. In the longer term, a change of culture within the Bank would be required, as has often been remarked in relation to safeguards and other**

concerns by internal evaluation mechanisms. When UNICEF adopted a policy grounded in the rights of the child, it took considerable time for the internal culture to change, just as it will in the case of others. Training will be an essential component, but if any organization is capable of mastering a new policy direction of this kind, it is the Bank.

78. **Engagement with human rights experts and mechanisms should become routine. A good starting point would be for the Human Rights Council to invite the President of the Bank to address it and engage in a dialogue with its members. The Bank should also set up a forum in which it could engage human rights leaders on a regular basis, just as it has done with religious and faith leaders.**

79. **The overarching policy principle, already accepted in relation to safeguards, is that the Bank should "do no harm" through its own involvement. How far the Bank can or should go in trying to bring about government policies that have no direct bearing on what it is supporting is open to debate. Again, some of the demands made of it in this area appear to be both unrealistic and counterproductive.**

80. **The Bank should have a due diligence policy that spells out some of the circumstances under which it would be unable to continue providing support for a given project. The United Nations due diligence policy in relation to peacekeeping is of direct relevance here. There is reason to believe that in many cases that subsequently became controversial, the Bank could have promoted relatively minor changes to make some of the projects much less vulnerable to criticism on human rights grounds. As the old aphorism says, a stitch in time saves nine.**

81. **All stakeholders need to rethink the approach to "sanctions" imposed upon borrowing States in response to human rights violations. In the past, such policies have too often been arbitrary, inconsistent, and even counterproductive. If the Bank were to sanction every member State that is accused of a serious human rights violation it would have very few borrowers and just as few lenders. As long as sanctions are considered to be the main element in a human rights policy, many Governments will continue to resist progress in this area. Based on experience to date, their position is not difficult to understand. The debate needs to move beyond the sanctions mentality and take a far more positive and nuanced turn.**

82. **It should be assumed that measures to enforce respect for human rights are the prerogative of the Human Rights Council and of the other appropriate United Nations political organs, and not of the World Bank.**

83. **Another key principle in any Bank policy should be to encourage and assist Governments to meet their existing obligations under international law in relation to human rights. Other international organizations explicitly seek to do this and the Bank has long done it in relation to international environmental treaty obligations.**

84. **In general, the policies of the Bank should emphasize the ways in which it can provide positive support, advice and assistance to States in relation to human rights. It could start by establishing a programme to assist**

Governments that wish to establish domestic institutional mechanisms to promote the integration of human rights into development policies.

85. **The Bank should adopt a policy addressing economic, social and cultural rights as human rights. Its frequent claims to be almost inadvertently doing this already are not persuasive, but there is much that it could do to promote a basic programme in this area, which would add enormous value to what the international community has so far been able to achieve.**

86. **Finally, those calling upon the World Bank to adopt a human rights policy need to pay equally focused attention to the policies being adopted by other multilateral lenders. The recently established New Development Bank and Asian Infrastructure Investment Bank are particularly relevant in that regard.**