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THE WORLD BANK

Washington, D.C.

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The World Bank

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Washington DC 20433

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Internet: www.worldbank.org

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HUMAN RIGHTS
27 FEBRUARY 2003



 **1831240**
R2004-088 Other # 3 Box # 207547B
Policy Development Records - Human Rights - Correspondence - February
27, 2003

DECLASSIFIED
WBG Archives

Ian Johnson
Sent by: June Remy

Subject: VP Meeting on Human Rights, Thursday, February 27, 12:30 pm
(lunch); MC6-N300

02/26/2003 04:37 PM
31053 ESDVP

Colleagues,

Thank you for confirming your attendance or that of your designated representative to a lunch meeting Thursday, February 27, 12:30-2:00 pm, Room MC 6 N300, to discuss the role of the Bank vis a vis human rights. This follows a recommendation made at the December VPs retreat that human rights be put on the agenda of an upcoming OVP meeting.

Interest in the subject has been growing in the Bank, and a number of workshops on human rights have been held in the Bank over the past year or so, beginning with a visit by Mary Robinson, UN High Commissioner for Human Rights, in December 2001. In May 2002, as part of ESSD Month, a day-long staff workshop was held on "Human Rights and Sustainability: What Role for the Bank?" In his remarks at that workshop, Jim Wolfensohn asked me to prepare for him a paper on what the Bank's approach should be to human rights. On the basis of deliberations of a cross-Network workshop group (EXT, LEG, PREM, HD, ESSD), I forwarded a note to him, which he referred to the Management Committee for discussion in September, 2002.

As a result of the Management Committee discussions, reference to human rights was made in Mr. Wolfensohn's Annual Meeting address, but the meeting's discussion were otherwise somewhat inconclusive as the President sought more information about what other agencies are doing in this area. EXT is currently finalizing a note on this issue. At the same time, subsequent informal discussion with some VPs and Nick Stern have surfaced conflicting internal views on what stance if any the Bank should take on this matter, with some arguing that some kind of position is urgently needed and others cautioning that any pronouncement could open a floodgate of demands and criticism.

The purpose of Thursday's meeting is to get your views--and particularly views from regional VPs --on how we should proceed in terms of articulating a stance on human rights. By way of background, I attach a brief note on

(i) the status of alignment of human rights principles and the Bank's poverty reduction mandate; and (ii) summary of the recommendations in the paper I presented to JDW. If you would like a copy of the full paper that went to the Management Committee, please contact my office; copies will be available at the meeting, along with an oral briefing on its content.

Looking forward to seeing you Thursday,

Ian



Human Rights and the Bank 2-24-03.c

To: Callisto E. Madavo
Cesare Calari
David De Ferranti
Gobind T. Nankani
James W. Adams
Jean-Louis Sarbib
Jemal-Ud-Din Kassum
Johannes F. Linn

Judith A. Edstrom
Mieko Nishimizu
Nemat Talaat Shafik
Robert Holzmann
Nicholas Stern
Michael U. Klein

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APR 19 2023

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Human Rights and the World Bank

Increasing Convergence of Human Rights and the Bank's Poverty Reduction Mandate

Changes within and outside the Bank have led to greater awareness of the links between the principles of human rights and our poverty reduction mandate. Most all the landmark strategic pieces produced by the Bank in the last three years—the CDF, the WDR 2000/01, the PRSP, and the Strategic Framework Paper, speak to the importance of what are essentially human rights principles: fair and inclusive institutions, empowerment, accountability, transparency, participation. The Bank's unequivocal support for the Millennium Declaration and the Monterrey Consensus, which endorse respect for human rights as part of a multifaceted response to the development challenge, also testifies to our commitment to these principles.

Limitations by our Articles of Agreement prohibiting the Bank's interference in domestic political affairs of its members, as well as sensitivities of some member-states to the risk of the Bank's encroachment on national sovereignty or national socio-cultural differences, have led the Bank to be cautious in its official remarks about human rights. The area of human rights is fraught with very sensitive and difficult issues. Some relate to the nature and definition of human rights as embodied in the international conventions; others are more political—touching cords of discontent between governments or against governments and IFIs from parts of the NGO community.

The UNDP Human Development Report 2000 on *Human Rights and Human Development* states that “to have a particular right is to have a claim on other people or institutions that they should help or collaborate in ensuring access to some freedom.” Unicef argues that “other people or institutions” should include parents and communities, not only governments. To the extent that these claims grant people an entitlement that gives rise to legal obligations on others, it creates the difficulties which the Bank has had with what constitutes an entitlement or a legal obligation. Nevertheless, there is an incipient move toward including in Bank projects, particularly in community driven development projects and some judicial reform projects, components which strengthen people's awareness or claiming of rights, as we have recognized that it is precisely the absence of this information or access that has often prevented policies or projects from realizing their intended benefits.

Moreover, the Bank has evolved from a focus on a primarily economic concept of development to a more holistic and comprehensive view of development that includes economic, as well as social, cultural and political aspects. Human rights set common standards of achievement in economic development and establishes measures of stakeholders responsibilities and accountability. Human rights establishes the importance of *processes* in attaining development outcomes (poverty eradication, MDGs) and, thus, greatly improves our understanding of the relationship between notions of efficiency and equity.

Along these lines, the Bank considers that the role of the state should be that of a facilitator and enabler while fostering capacity to fight poverty more effectively. Hence, the Bank promotes an enabling environment at the country level that facilitates development and freedom for greater

human dignity. As the Bank moves further to assist countries in the promotion of good governance, project and programmatic lending is increasingly concerned with the rule of law. By increasing the efficiency of the legal and judicial system, providing greater access to justice, and reforming the public sector at large to enhance accountability and transparency as well as to increase participation, the Bank is playing a complementary role to the human rights community.

The Office of the High Commissioner for Human Rights has recently prepared draft guidance/guidelines on a human rights approach to national poverty reduction strategies. The draft emphasizes that these are not specifically or exclusively for PRSPs or the Bank, and that the term guidelines should be interpreted as guidance not rules. Discussed at a June 2002 workshop in which several Bank staff participated, the guidelines provide some valuable insights into how poverty reduction and human rights are two mutually reinforcing approaches which can strengthen the Bank's effectiveness more generally in fighting poverty.

Among the core human rights principles cited in the June 2002 guidelines where there is significant convergence with trends in the Bank are the following principles related the *process* of formulating poverty reduction strategies:

- More meaningful *identification of the poor*: with greater focus on the attributes, causal relationships, and differential impacts of public policy
- *Equality and non-discrimination*: following on more focused analysis of the attributes of vulnerable groups, including women, developing strategies for social inclusion
- *Participation and empowerment*: increasing participation at design, decision and implementation stages
- *Accountability and transparency*: systems and policies which help to increase these.

Status of Current Bank Work on Human Rights

Learning and dissemination. A number of workshops on human rights have been held in the Bank over the past year, beginning in May 2002 with a day-long workshop on "Human Rights and Sustainability: What Role for the Bank" organized by the Social Development Department (SDV) as part of ESSD Month. EXT and WBI organized a Bank-OHCHR familiarization seminar in June and collaborated with the NGO ActionAid in the latter's day-long seminar on human rights and the World Bank in September. A series of seminars and brown bag lunches have explored various principles of human rights issues and other donors' approaches to them. LEG is planning a March seminar on "Law, Institutions and Gender Equality" which will focus heavily on rights issues.

Interest by donor partners. At a November meeting of social development advisers of our key bilateral partners attended by the SDV Director, all expressed interest in seeing the Bank collaborate with them in incorporating the principles of human rights in development actions. DFID expressed interest in underwriting further Bank work on the subject. During their December visit, the Norwegian Reference Group for the ESSD Trust Fund proposed that a Bank-donor workshop on human rights be held in the spring. The UN agencies are proposing a

APR 19 2023

February 24, 2003

*Unofficial staff note**Not for distribution or attribution***WBG ARCHIVES**

similar workshop, to which the Bank is invited, to strengthen common approaches among UN agencies.

Bank management action. In his remarks at the ESSD human rights seminar in May, Mr. Wolfensohn articulated his support for human rights and asked Ian Johnson to prepare for him a paper on what the Bank's approach should be to human rights. Mr. Johnson organized a cross-Network working group (EXT, LEG, PREM, HD, ESSD), coordinated by Judith Edstrom, Sector Manager, SDV, to prepare a note, which Mr. Johnson forwarded to the President in late July. Mr. Wolfensohn requested discussion at a September Management Committee meeting.

The note to the President included the following observations and recommendations:

- The Bank can do more to demonstrate our commitment to and alignment with the principles of human rights, while remaining faithful to our core mandate of poverty reduction, our Articles of Agreement and our commitment to selectivity.
- We need to demystify the complex and charged human rights debate as a primary first order objective--to provide a comfort level and guidance for staff that "it's okay" to engage on these issues; a discussion/issues paper can be a means to open up the dialogue within the Bank and with the Board.
- The Bank can embrace more explicitly the principles or values of human rights, especially in the area of economic and social rights, without adopting a formal, comprehensive rights-based approach.
- A number of incipient operational approaches are already being tested or rolled out in the Bank which will not only strengthen the enabling environment for human rights but will directly help achieve human rights for poor people.
- The Bank can undertake applied research in selected areas of human rights/development linkages, and stimulate learning and dialogue within the Bank and with other groups, including civil society groups, working in human rights. In particular, where global coalitions are using human rights analytical frameworks to meet MDGs, we should join as appropriate.

At the Management Meeting, Mr. Wolfensohn asked Mr. Karlsson to provide a brief on what other agencies were doing in this area. EXT is now refining and updating the piece. Meanwhile, as recommended at the Management Meeting, Mr. Wolfensohn's Annual Meeting speech included a reference to human rights. However, the meeting did not conclude with other specific recommendations.

*Social Development Department**ESSD**February 24, 2003*

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APR 18 2001
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Judith A. Edstrom

02/24/2003 06:17 PM
33621 SDV

Subject: VP Meeting on Human Rights, Thursday, February 27, 12:30 pm
(lunch)

Ian,

Please find attached a proposed note to the VPs coming to the Thursday meeting on human rights. As you and I agreed, it isn't feasible to have a totally "free floating" discussion as proposed by Johannes. I have therefore included a 3 page paper which gives the trends in convergence of human rights principles and the Bank's work, and summarizes the findings/recommendations of the paper you sent to JDW, That way the meeting can give some sense as to whether it agrees with the proposed way forward rather than simply giving a yay or nay response. I can also prepare a brief presentation on the issues and recommended actions.

Judy

----- Forwarded by Judith A. Edstrom/Person/World Bank on 02/24/2003 06:13 PM -----



Judith A. Edstrom

02/24/2003 03:32 PM
33621 SDV
*** DRAFT ***

To: Hr Meeting Of Vps: To Vps And Their Designated Representatives
cc: Judith A. Edstrom
Subject: VP Meeting on Human Rights, Thursday, February 27, 12:30 pm
(lunch)

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Jan 10 → [Wards]
→ limitations

not dry → HR watch
for names linked ones

Tag - next steps . what is put
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re HR watch

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counter framework

argument

(A) [include/exclude]

(B) [Proxy]

(C) [Product]

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2-3 psl

(1) statement of where the Bank is + some best practices.

54 +

(2) what we don't do.

show the substa ~~workgroup~~

Jan

link

manipulate

regional

Looking forward to seeing you Thursday,

Ian



Human Rights and the Bank 2-24-03.

To: Ian Johnson
cc: June Remy
Steen Lau Jorgensen
Vinodhini David
Carmen Martinel

Human Rights

→ Increasing pressure:

- outside interlocutors from HR community
- [+ ad -] + Indragya Puyes [rich]
- "rights based approach to development" →
- some bilaterals; UN

→ Internal pressure

- Inspection Panel
- UN relationship [Geneva, NY]
- Speeches / talks [os Nick Steer] + JPOW
- Board [S Canadian members, other emb, LDCs skeptical; VS = neutral].
- ect - new perspectives.

What to do

→ No OP

→ Corporate Policy = yes.

→ Staff help on Q & A

→ No we don't (not)

→ we do it all the time

advice on next steps

Cal

Sum A →

was also,

- Duration of labor = any -
- what do we ask users.
- what we do is supportive. - celebrate
- "Mission creep" → big time?
- ⇒ proach but not mission creep

several embraces of human rights
 but we do is inherently political.
 articulate what we do e now do
 is consistent.

guidance

more clearly
demarcated

Objectives

Cal

What do we not do?

clarity

Coexisting
alignment

mixed tactics →

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APR 19 2023

February 24, 2003

Unofficial staff note

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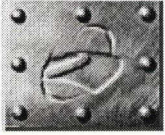
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June Remy

02/11/2003 06:40 PM
88467 ESDVP

Subject: List of attendees: Re: Human Rights meeting 

Judy,

The following will attend: Cesar Calari, G. Nankani, James Adams, J. Linn, C. Madavo, J. Kassum

Acting will attend: J. Sarbib, N. Shafik (M. Klein)

Rep and still to confirm: Holzmann, Mieko Nishimizu.

June.


attending

Judith A. Edstrom



Judith A. Edstrom

02/11/2003 01:52 PM
33621 SDV

To: June Remy
cc: Carmen Martinel, Vinodhini David
Subject: Re: Human Rights meeting 

June, I suggest you go ahead with the announcement. Can you let me know who has accepted, who would like to send actings?
thanks.
June Remy



June Remy

02/10/2003 03:39 PM
88467 ESDVP

To: Judith A. Edstrom
cc: Vinodhini David, Carmen Martinel
Subject: Human Rights meeting



Judy,

We are aiming for February 27 for the lunch meeting, but several of the Network VP and RVP offices are enquiring if the Acting or a representative can attend? Out of a total of 11 VPs/RVPs we have five confirmed who can attend on that date, and two still to be confirmed.

Due to Water Week, ESSD Week and Japan mission, Ian will not be available until the week of March 24 to set up further dates.

Please advise before we send out the announcement for February 27.

Poverty reduction → related to HR

- Do no harm
- clarity manages
- recency of merges → HR vs R&D

health, education, governance → very positively to HR

ethics = social justice

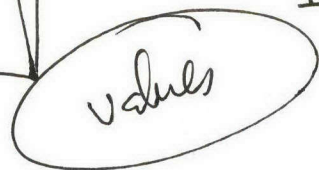
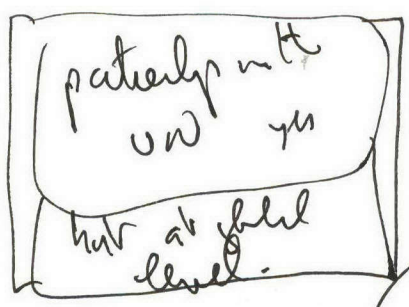
ethics - not really funded in human rights

HR - no trade-offs

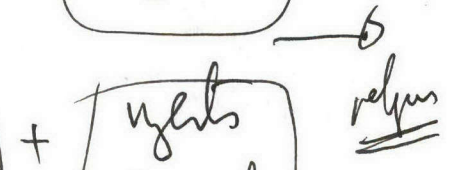
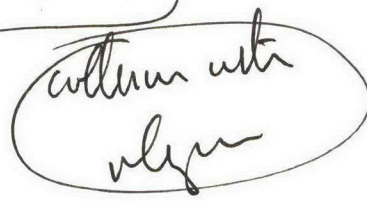
strong ethical - strong

core labor standards

clarity of message



others -



+

Vinay K. Bhargava

Subject: Position of MDBs on Human Rights and Development

02/18/2003 04:36 PM

32600 EXTIA

Ian,

Please find attached an Issues Brief on "The Position of MDB's on Human Rights and Development." This will respond to the MC request. We are also working on a separate brief on the views of civil society groups and UN system- while their views are generally known the Note will compile a factual basis for use in our ongoing work in this area. A summary of the Note's findings is reproduced below.

"Summary: This note has been prepared in response to a request of the Managing Committee for an assessment of where the Multilateral Development Banks (MDBs) stand on human rights agenda. EXT staff made this assessment by making discreet enquiries from MDBs. Despite efforts a response from AsDB was not forthcoming. This analysis has not been validated by sharing it with MDB staff and should, therefore, be regarded as tentative. The Note reports that the MDB's are embracing a human rights approach to development cautiously. Elements of rights based approaches are beginning to show up in some MDBs' country assessments, sector strategies and project activities, while human rights language is mostly absent from country dialogues and corporate communication. The relative positioning of the MDB's on human rights is difficult to ascertain, because no agreed framework exists. Preliminary assessment is that the World Bank seems more explicit than other MDB's in its external communication on human rights and IDB more progressive in terms of operationalization, while the EBRD is the only institution to apply human rights as a conditionality. "

Regards,

Vinay



Human Rights - 1. MDBs.doc

To: Ian Johnson
cc: Shengman Zhang
Judith A. Edstrom
Anders Hjorth Agerskov

DECLASSIFIED

MAY 18 2023

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Confidential Issues Brief

February 2003

The Position of MDB's on Human Rights and Development

Summary: This note has been prepared in response to a request of the Managing Committee for an assessment of where the Multilateral Development Banks (MDBs) stand on human rights agenda. EXT staff made this assessment by making discreet enquiries from MDBs. Despite efforts a response from AsDB was not forthcoming. This analysis has not been validated by sharing it with MDB staff and should, therefore, be regarded as tentative. The Note reports that the MDB's are embracing a human rights approach to development cautiously. Elements of rights based approaches are beginning to show up in some MDBs' country assessments, sector strategies and project activities, while human rights language is mostly absent from country dialogues and corporate communication. The relative positioning of the MDB's on human rights is difficult to ascertain, because no agreed framework exists. Preliminary assessment is that the World Bank seems more explicit than other MDB's in its external communication on human rights and IDB more progressive in terms of operationalization, while the EBRD is the only institution to apply human rights as a conditionality.

Introduction. This brief has been prepared by staff of the International Affairs Unit, EXT, in response to a request by the Management Committee to analyze the current policies and practices of MDB's on human rights and development. The analysis is based on publicly available documents from MDB websites (articles of agreements, corporate and sector strategies, policy notes, etc.) and interviews with human rights focal point(s) of each MDB (except AsDB), which are typically located in a policy function, chief economist's office and/or media department. These focal points provide a good, though not fully complete, picture of how human rights are being mainstreamed across their respective institutions.

MDB's are cautiously embracing a human rights approach

MDBs consider human rights politically sensitive as reflected by the uneasiness with which it is discussed by the IDB top management, the reluctance of AfDB Senior Management to support human rights efforts, or the fact that the EBRD president – not operational staff – communicate on the issue. Human rights language is mostly absent from MDB annual reports and senior management speeches, but is reflected in some sector strategies, typically on indigenous peoples, gender, governance and education, and at the EBRD also very explicitly in country assessments. As far as we can determine, in the case of AfDB, EBRD and IDB, little internal institutional debate is taking place as the

issue is mostly discussed by a small number of staff in certain policy functions and/or in specific country teams.

Three approaches have been employed by MDB's to mitigate political risks associated with supporting a human rights agenda. First, AfDB, EBRD and IDB have leveraged the political legitimacy of regional organizations like NEPAD, OSCE / Council of Europe and UN ECLAC / OAS as well as civil society organizations by deferring to them sensitive issues like human rights advocacy and reporting on human rights violations. Second, human rights objectives have been advanced with economic rationales and recast in development terms like "inclusion" and "empowerment". Third, efforts have been embedded in a low-key way in country and regional projects (IDB).

MDBs' Articles of Agreement are not explicit on human rights. In the case of AfDB, AsDB, IDB and the World Bank, institutional objectives are only stated in terms of "economic growth" or "economic development", and in the case of the EBRD also the fostering of "transition towards open market-oriented economies" for those countries "committed to and applying the principles of multiparty democracy, pluralism and market economics." The Articles of Agreement of the AfDB, IDB and World Bank also stipulate that only "economic considerations shall be relevant to their decisions".

Though the Articles of Agreement are seemingly narrow in scope and do not explicitly mention human rights, the legal opinion within AfDB and EBRD do allow for a more flexible interpretation. According to the AfDB governance policy paper, its Articles of Agreement "...justify a consideration of human rights practices among the criteria for granting assistance". EBRD in its "Political Aspects of the Mandate of the EBRD" states that "...only those rights which, in accordance with international standards, are essential elements of multiparty democracy, pluralism and market economics should be considered when evaluating a country's progress. Such a reading of the Agreement focuses primarily on civil and political rights. Other rights, including economic and social rights that advance multiparty democracy, pluralism and market economics, could be taken into account and fostered by the Bank in connection with its normal operations."

In practice human rights violations can affect some MDBs' country engagements.

Praxis shows that human rights violations have led EBRD to reduce its lending operations in Kazakhstan and Uzbekistan by scaling back its involvement to only include private sector investments, virtually halting all assistance except portfolio maintenance. The principles for engagement with these two countries are outlined in EBRD's country strategies, which prescribe a baseline, intermediate and regular scenario according to how well a country has progressed politically in terms of democracy and human rights (both Kazakhstan and Uzbekistan are currently at the baseline scenario). According to the IDB, human rights violations are not so severe in its region that country engagements are being scaled back. The latest example was the suspension of loan operations in Suriname in line with other donors in the 1980'es. **While AfDB does formally include human rights as a criterion for assistance, it has not been implemented, according to one source.** The reasons being that the policy is not supported by Senior Management, Directors do not feel comfortable bringing up human

rights issues with client country ministers and only more junior staff work on governance / human rights. Non-regional Executive Directors have occasionally raised human rights issues at AfDB Board meetings.

mainstreaming is moving into sector strategies, assessments and projects

The human rights agenda has in its first wave been carried forward by the gender agenda and in a second wave by the anti-corruption / good governance agenda. The latter has become mainstream for most MDB's, with the AfDB still being in its early phase of implementation with three country governance reviews undertaken so far (Gambia, Ghana and Nigeria). A third wave is on the way with efforts in support of education (“education for all”) and judicial reform. In addition to being embedded in sectoral or issue based efforts, human rights elements have also been reflected in existing projects through the focus on vulnerable and marginalized groups such as indigenous peoples (AsDB, EBRD and IDB) and children (IDB).

Human rights mainstreaming is also evident in some assessments, especially those of the EBRD and IDB, however, in quite different ways. At EBRD, political assessments are carried out by political counselors within the chief economist's office, sometimes with participation by operational staff, with the aim of determining political progress and thus the scale and scope of EBRD's country engagement. Assessments are attached to the country strategy and made publicly available through the Internet. The language is for MDB's quite explicit: “The government's human rights record remains poor. The government continues to censor media, controls access to the Internet, prevents free functioning of independent NGOs and violates individual human rights.” (Political assessment of Turkmenistan). At IDB, assessments are carried out by policy and country staff. Governance assessments are the ones that most often include human rights aspects, and they often serve to scope out new projects addressing many of the human rights issues identified.

Among the more innovative approaches to human rights and development are the support to political parties, the police, and certain aspects of legal reform as well as the leveraging of regional institutions as mentioned above. These efforts are all spearheaded by the IDB, which has developed novel approaches to these politically sensitive issues:

- Capacity building of political parties is provided through “free for all” courses on fund raising, management, etc.
- Efforts in support of the police, for example violence prevention guidelines, are deemed to be a new growth area for the IDB.
- Legal reform efforts have provided the opportunity to include general human rights provisions in laws, for example on non-discrimination, though the legal text often stops short of mentioning specific issues like homosexuals' rights.
- The partnership with regional institutions not only consists of delegating politically sensitive human rights issues. IDB has for example provided a role for an independent agency – in this case UN ECLAC – to monitor human rights aspects of a prison reform program.

So who is more progressive?

The relative positioning of the MDB's on human rights is difficult to ascertain, because no agreed framework exists. The table below is based on the data and interview framework used for the above analysis, and gives a rough indication of institutional positioning, though this will likely vary from issue to issue and – for the World Bank also – from region to region.

Table 1. Relative Progressiveness of RDB's Compared to the World Bank

	--	-	World Bank	+	++
Human rights as conditionality for assistance			AsDB IDB	AfDB	EBRD
Explicit human rights language in corporate communication	AfDB AsDB	IDB			EBRD
Integration of human rights into country assessments	AfDB			IDB	EBRD
Projects aimed at improving respect for human rights	EBRD			IDB	
		AfDB AsDB			

The World Bank seems to be more explicit and open on human rights in its external communication such as presidential speeches, workshops, civil society dialogue, etc. than other MDB's. In terms of operational mainstreaming, IDB appears to have progressed the furthest, as the EBRD does not undertake projects aimed at strengthening human rights, and the AfDB only does so through gender and to a very limited extent governance projects. EBRD is the only institution, which uses progress on human rights as a condition for assistance, though AfDB formally accepts the link. In terms of the country assessments, EBRD is the only institution to explicitly include human rights with IDB de facto using its governance assessments to identify human rights issues.

Increasing Convergence of Human Rights and the Bank's Poverty Reduction Mandate

Changes within and outside the Bank have led to greater awareness of the links between the principles of human rights and our poverty reduction mandate. Most all the landmark strategic pieces produced by the Bank in the last three years—the CDF, the WDR 2000/01, the PRSP, and the Strategic Framework Paper, speak to the importance of what are essentially human rights principles: fair and inclusive institutions, empowerment, accountability, transparency, participation. The Bank's unequivocal support for the Millennium Declaration and the Monterrey Consensus, which endorse respect for human rights as part of a multifaceted response to the development challenge, also testifies to our commitment to these principles.

Limitations by our Articles of Agreement prohibiting the Bank's interference in domestic political affairs of its members, as well as sensitivities of some member-states to the risk of the Bank's encroachment on national sovereignty or national socio-cultural differences, have led the Bank to be cautious in its official remarks about human rights. The area of human rights is fraught with very sensitive and difficult issues. Some relate to the nature and definition of human rights as embodied in the international conventions; others are more political—touching cords of discontent between governments or against governments and IFIs from parts of the NGO community.

The UNDP Human Development Report 2000 on *Human Rights and Human Development* states that “to have a particular right is to have a claim on other people or institutions that they should help or collaborate in ensuring access to some freedom.” Unicef argues that “other people or institutions” should include parents and communities, not only governments. To the extent that these claims grant people an entitlement that gives rise to legal obligations on others, it creates the difficulties which the Bank has had with what constitutes an entitlement or a legal obligation. Nevertheless, there is an incipient move toward including in Bank projects, particularly in community driven development projects and some judicial reform projects, components which strengthen people's awareness or claiming of rights, as we have recognized that it is precisely the absence of this information or access that has often prevented policies or projects from realizing their intended benefits.

Moreover, the Bank has evolved from a focus on a primarily economic concept of development to a more holistic and comprehensive view of development that includes economic, as well as social, cultural and political aspects. Human rights set common standards of achievement in economic development and establishes measures of stakeholders responsibilities and accountability. Human rights establishes the importance of *processes* in attaining development outcomes (poverty eradication, MDGs) and, thus, greatly improves our understanding of the relationship between notions of efficiency and equity.

Along these lines, the Bank considers that the role of the state should be that of a facilitator and enabler while fostering capacity to fight poverty more effectively. Hence, the Bank promotes an enabling environment at the country level that facilitates development and freedom for greater

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human dignity. As the Bank moves further to assist countries in the promotion of good governance, project and programmatic lending is increasingly concerned with the rule of law. By increasing the efficiency of the legal and judicial system, providing greater access to justice, and reforming the public sector at large to enhance accountability and transparency as well as to increase participation, the Bank is playing a complementary role to the human rights community.

The Office of the High Commissioner for Human Rights has recently prepared draft guidance/guidelines on a human rights approach to national poverty reduction strategies. The draft emphasizes that these are not specifically or exclusively for PRSPs or the Bank, and that the term guidelines should be interpreted as guidance not rules. Discussed at a June 2002 workshop in which several Bank staff participated, the guidelines provide some valuable insights into how poverty reduction and human rights are two mutually reinforcing approaches which can strengthen the Bank's effectiveness more generally in fighting poverty.

Among the core human rights principles cited in the June 2002 guidelines where there is significant convergence with trends in the Bank are the following principles related the *process* of formulating poverty reduction strategies:

- More meaningful *identification of the poor*: with greater focus on the attributes, causal relationships, and differential impacts of public policy
- *Equality and non-discrimination*: following on more focused analysis of the attributes of vulnerable groups, including women, developing strategies for social inclusion
- *Participation and empowerment*: increasing participation at design, decision and implementation stages
- *Accountability and transparency*: systems and policies which help to increase these.

Status of Current Bank Work on Human Rights

Learning and dissemination. A number of workshops on human rights have been held in the Bank over the past year, beginning in May 2002 with a day-long workshop on "Human Rights and Sustainability: What Role for the Bank" organized by the Social Development Department (SDV) as part of ESSD Month. EXT and WBI organized a Bank-OHCHR familiarization seminar in June and collaborated with the NGO ActionAid in the latter's day-long seminar on human rights and the World Bank in September. A series of seminars and brown bag lunches have explored various principles of human rights issues and other donors' approaches to them. LEG is planning a March seminar on "Law, Institutions and Gender Equality" which will focus heavily on rights issues.

Interest by donor partners. At a November meeting of social development advisers of our key bilateral partners attended by the SDV Director, all expressed interest in seeing the Bank collaborate with them in incorporating the principles of human rights in development actions. DFID expressed interest in underwriting further Bank work on the subject. During their December visit, the Norwegian Reference Group for the ESSD Trust Fund proposed that a Bank-donor workshop on human rights be held in the spring. The UN agencies are proposing a

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February 24, 2003

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similar workshop, to which the Bank is invited, to strengthen common approaches among UN agencies.

Bank management action. In his remarks at the ESSD human rights seminar in May, Mr. Wolfensohn articulated his support for human rights and asked Ian Johnson to prepare for him a paper on what the Bank's approach should be to human rights. Mr. Johnson organized a cross-Network working group (EXT, LEG, PREM, HD, ESSD), coordinated by Judith Edstrom, Sector Manager, SDV, to prepare a note, which Mr. Johnson forwarded to the President in late July. Mr. Wolfensohn requested discussion at a September Management Committee meeting.

The note to the President included the following observations and recommendations:

- The Bank can do more to demonstrate our commitment to and alignment with the principles of human rights, while remaining faithful to our core mandate of poverty reduction, our Articles of Agreement and our commitment to selectivity.
- We need to demystify the complex and charged human rights debate as a primary first order objective--to provide a comfort level and guidance for staff that "it's okay" to engage on these issues; a discussion/issues paper can be a means to open up the dialogue within the Bank and with the Board.
- The Bank can embrace more explicitly the principles or values of human rights, especially in the area of economic and social rights, without adopting a formal, comprehensive rights-based approach.
- A number of incipient operational approaches are already being tested or rolled out in the Bank which will not only strengthen the enabling environment for human rights but will directly help achieve human rights for poor people.
- The Bank can undertake applied research in selected areas of human rights/development linkages, and stimulate learning and dialogue within the Bank and with other groups, including civil society groups, working in human rights. In particular, where global coalitions are using human rights analytical frameworks to meet MDGs, we should join as appropriate.

At the Management Meeting, Mr. Wolfensohn asked Mr. Karlsson to provide a brief on what other agencies were doing in this area. EXT is now refining and updating the piece. Meanwhile, as recommended at the Management Meeting, Mr. Wolfensohn's Annual Meeting speech included a reference to human rights. However, the meeting did not conclude with other specific recommendations.

*Social Development Department
ESSD
February 24, 2003*



Judith A. Edstrom

02/24/2003 06:17 PM
33621 SDV

Subject: VP Meeting on Human Rights, Thursday, February 27, 12:30
pm (lunch)

Ian,

Please find attached a proposed note to the VPs coming to the Thursday meeting on human rights. As you and I agreed, it isn't feasible to have a totally "free floating" discussion as proposed by Johannes. I have therefore included a 3 page paper which gives the trends in convergence of human rights principles and the Bank's work, and summarizes the findings/recommendations of the paper you sent to JDW. That way the meeting can give some sense as to whether it agrees with the proposed way forward rather than simply giving a yay or nay response. I can also prepare a brief presentation on the issues and recommended actions.

Judy

----- Forwarded by Judith A. Edstrom/Person/World Bank on 02/24/2003 06:13 PM -----



Judith A. Edstrom

02/24/2003 03:32 PM
33621 SDV
*** DRAFT ***

To: Hr Meeting Of Vps: To Vps And Their Designated
Representatives
cc: Judith A. Edstrom
Subject: VP Meeting on Human Rights, Thursday, February 27, 12:30
pm (lunch)

Colleagues,

Thank you for confirming your attendance or that of your designated representative to a lunch meeting Thursday, February 27, 12:30-2:00 pm, Room MC 6 N300, to discuss the role of the Bank vis a vis human rights. This follows a recommendation made at the December VPs retreat that human rights be put on the agenda of an upcoming OVP meeting.

Interest in the subject has been growing in the Bank, and a number of workshops on human rights have been held in the Bank over the past year or so, beginning with a visit by Mary Robinson, UN High Commissioner for Human Rights, in December 2001. In May 2002, as part of ESSD Month, a day-long staff workshop was held on "Human Rights and Sustainability: What Role for the Bank?" In his remarks at that workshop, Jim Wolfensohn asked me to prepare for him a paper on what the Bank's approach should be to human rights. On the basis of deliberations of a cross-Network workshop group (EXT, LEG, PREM. HD, ESSD), I forwarded a note to him, which he referred to the Management Committee for discussion in September, 2002.

As a result of the Management Committee discussions, reference to human rights was made in Mr. Wolfensohn's Annual Meeting address, but the meeting's discussion were otherwise somewhat inconclusive as the President sought more information about what other agencies are doing in this area. EXT is currently finalizing a note on this issue. At the same time, subsequent informal discussion with some VPs and Nick Stern have surfaced conflicting internal views on what stance if any the Bank should take on this matter, with some arguing that some kind of position is urgently needed and others cautioning that any pronouncement could open a floodgate of demands and criticism.

The purpose of Thursday's meeting is to get your views--and particularly views from regional VPs --on how we should proceed in terms of articulating a stance on human rights. By way of background, I attach a brief note on

(i) the status of alignment of human rights principles and the Bank's poverty reduction mandate; and (ii) summary of the recommendations in the paper I presented to JDW. If you would like a copy of the full paper that went to the Management Committee, please contact my office; copies

will be available at the meeting, along with an oral briefing on its content.

Looking forward to seeing you Thursday,

Ian



Human Rights and the Bank 2-24-03.c

To: Ian Johnson
cc: June Remy
Steen Lau Jorgensen
Vinodhini David
Carmen Martinel

Institute for the Study of International Migration

Human Rights Forum

THE WORLD BANK DEFENDS ITS RECORD ON HUMAN RIGHTS

Senior officials from the World Bank and NGO representatives use the Human Rights Forum to discuss the outlines of a "rights based approach" to poverty lending by the World Bank.

Two senior officials from the World Bank used a November 24 meeting of the Georgetown Human Rights Forum to defend the Bank's human rights record against NGO criticism, and asked for practical advice on what is meant by a "rights-based approach to development."

In a wide-ranging two-hour debate, which drew an audience of 300, Ian Johnson, Senior Vice President for the Environmentally and Socially Sustainable Development Network at the World Bank, insisted that the Bank has made a series of major changes which have enabled the Bank to become a central player in promoting the rights of the poor.

Mr. Johnson also said that the Bank's operations evaluation unit might consider undertaking human rights assessments of Bank projects, and that the Bank could provide support for the new UN Convention on the rights of migrant workers as part of its work on "human movement."

But Mr. Johnson also explained that promoters of human rights with the Bank have difficulty "selling" rights to their colleagues in operational departments, and to the Bank's 24-member Executive Board. He himself had looked at the policies of agencies like the UNDP and UNICEF, which have adopted a "rights-based approach," and found little practical difference in their operational programs from one day to the next.

Mr. Johnson heads an internal World Bank task force on human rights which is due to report to the Bank president, James Wolfensohn, so his views were listened to with considerable attention. Also appearing on the panel was, Judith Edstrom, Sector Manager for Social Development at the Bank and another member of the task force.

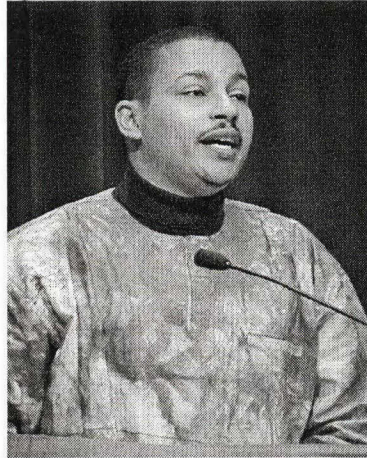


Ian Johnson, Senior Vice President for the Environmentally and Socially Sustainable Development Network at the World Bank

The NGO community was represented by Irungu Houghton, US Program Coordinator for

ActionAid USA; and Mike Jendrzejczyk, Washington Director of the Asia Division for Human Rights Watch. Both gave practical examples of how the Bank could integrate human rights into its programs – not least by intervening on behalf of NGOs who work on key Bank programs, such as HIV/AIDS and the internet.

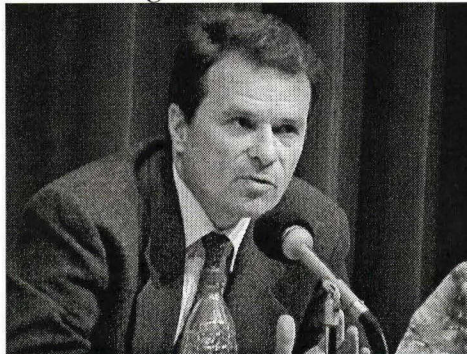
They also argued that an integrated policy on human rights would allow the Bank to play a "unique role" at the nexus of poverty and development, and that it had a responsibility not to lend to governments which violate their obligations under international human rights treaties.



Irungu Houghton, US Program Coordinator for ActionAid USA

The World Bank lends about \$20 billion annually, and has immense power to shape the economies of smaller countries. Human rights NGOs have long complained that many Bank's projects and programs (particularly structural adjustment and large infrastructural loans) harm human rights, and urged the Bank to integrate human rights more into its lending.

The Bank's standard response has been that formally embracing human rights would violate its articles of agreement, which forbid political interference in the domestic affairs of member governments. At the same time they maintain that many Bank loans, on education and health, make it possible to realize social and economic rights.



**Mike Jendrzejczyk, Washington Director of the
Asia Division for Human Rights Watch**

Mr. Johnson told the audience that the Bank's articles must be respected, as with any institution, but that they were being less "rigidly" interpreted than in previous years. He also noted a series of major changes at the Bank, which have allowed it to become an important partner in the fight against human rights:

- Defining poverty: The Bank's definition of poverty has evolved from per capita income to

social exclusion and disenfranchisement, and even more broadly to "the extent to which people are fragile or vulnerable within the society." This makes it easier to define poverty in terms of human rights violations.

- Safeguard policies: The Bank has drawn up several policies aimed at cushioning those who are affected by Bank programs (i.e. indigenous peoples). These, said Mr. Johnson, are more stringent than any other comparable institution including credit export banks.
- The Bank has established a 3-person independent inspection panel (one of whom is a Georgetown professor) which hears complaints by individuals who have been adversely affected by Bank projects. The panel has heard 27 cases and occasionally forced the Bank to change direction.
- Mr. Johnson said he favored economic growth, but also conceded that economic inequality is growing. This, he said, was outside the Bank's control. He cited contributing factors like the "scandalous" OECD agricultural subsidies, which currently amount to about a billion dollars a day - equal to the combined GDP of Sub-Saharan Africa.
- Social and economic rights: The constraint on the Bank's ability to fund social programs, and so realize social rights such as the right to health, is not money or staff. In fact, the number of Bank officials working on health has grown quickly to 150. The real constraint is "demand" for such programs in the borrowing countries. This needs more promotion by the Bank.
- The Bank has decentralized its operations and appointed an NGO liaison officer in all of its country offices. This brings it more into contact with community needs and allows it to work directly with civil society.
- The Bank is increasingly supportive of rule of law programs – to the point where the Bank's Legal Department even provides technical assistance in areas like domestic abuse.
- The Bank has intervened discreetly on behalf of NGO leaders, and human rights defenders, who have been attacked or jailed by governments – where it feels this will likely succeed.

While commending the Bank for publicly engaging in the human rights debate – something that would have been unthinkable ten years ago – both NGO speakers said the Bank could do much more.

Mr. Houghton said that the Bank had forced his own government, Kenya, to put the repayment of its debts before the rights of Kenyan citizens – and that this was even enshrined in the constitution. By promoting the downsizing of government and structural adjustment, he said, the Bank undercuts the rights of the poor and creates greater vulnerability



**Judith Edstrom, Sector Manager for Social Development
at the Bank and another member of the task force**

According to one study by ActionAid, this had led to the lifting of price controls and the ending of food subsidies during a famine in Mali. The result was that hoarders held back food and "made a killing" on the market, while Malians actually died from starvation.

Mr. Jendrzejczyk, from Human Rights Watch, gave several practical examples of a "rights-based" approach. He commended the Bank for supporting rule of law programs, but urged it go further. In one example, he said, China was establishing legal aid centers in impoverished rural areas. The Bank should provide these centers with legal expertise, and make them better able to work on abuses such as the trafficking of women, which plague this "huge country in transition."

Mr. Jendrzejczyk also complained that the Bank's commitment to civil society was often "pro forma," and urged the Bank to intervene more actively on behalf of human rights defenders and NGOs which support for key Bank programs. For example, the Bank was investing heavily in the internet and committed to bridging the "digital divide." Yet it had failed to intervene when China arrested a computer programmer named Houng Qi who set up the first human rights website in China.

The Bank had also declined to press the Indian government to provide protection for victims of HIV/AIDS discrimination in India – even though ending discrimination could be key to the success of a massive Bank program to combat HIV/AIDS.

Both Mr. Houghton and Mr. Jendrzejczyk argued that the Bank could do itself a favor by integrating human rights more into its lending. Mr. Houghton said this would provide the Bank with a new "paradigm" for its lending, and also position the agency to play a unique role at the nexus between both branches of rights (civil/political and social/economic) and development. It would also ensure that the Bank does not get "left behind" by other agencies in the international system.

Once again, the real problem for Mr. Johnson was practical – how to get colleagues, borrowing governments and the Bank's Board to buy into such an approach. Unlike other UN agencies of bilateral aid agencies, he said, the Bank does not have a diplomatic arm which allows it to challenge governments, and that governments would not accept any challenge to their sovereignty. "It won't wash."

If the Bank wants to advance such arguments, said Mr. Johnson, it will need to use other allies in the international system with a more formal mandate for human rights.

Even consultations with civil society had been difficult, he said. The Bank had organized 32 consultations with 1,000 indigenous representatives during the redrafting of a new Bank policy on indigenous peoples. Still, the indigenous felt dissatisfied and under-represented. This, he said, pointed to the need for new institutions better able to handle such consultations, or a radically new approach to consultations.

Mr. Johnson did, however, suggest that the Bank' Operations Evaluation Department might be an appropriate forum for conducting human rights assessments of Bank programs and projects. This has long been a demand of human rights organizations. One questioner, from Friends of the Earth (USA), said assessments would allow for much better engagement by civil society in the borrowing countries and also a more public appreciation of the trade-offs involved when the Bank makes a loan.

Mr. Johnson did not rule this out, although he said it would have to be acceptable to the Bank's Executive Board. "Would it (the Board) be interested? I don't know. I just don't know."

TO CONTACT THE SPEAKERS:

World Bank: **Judieth Edstrom** at 202-473-3621, email: jedstrom@worldbank.org

Human Rights Watch: **Mike Jendrzeczyk** at 202-612-4321, email: jendrzem@hrw.org
ActionAid USA: **Irungu Houghton** at 202-835-2140, email: irunguh@actionaidusa.org

Institute for the Study of International Migration
Human Rights Forum

**THE WORLD BANK
AND HUMAN RIGHTS**

**A debate organized by the Human rights Forum of the
Institute for the Study of International Migration, Georgetown University**

Critics of the World Bank claim that many Bank programs violate human rights, and want human rights integrated into the Bank's policies. The Bank replies that its statutes prohibit interference in the domestic political affairs of governments - and that its anti-poverty programs benefit human rights. Two senior officials from the Bank shared their views with NGO representatives and engaged in a lively exchange with the audience, at the Intercultural Center Auditorium, Georgetown University on Thursday, November 14, 2002.

Moderator: **Iain Guest**, Adjunct Professor, Georgetown University

Featured speakers:

Ian Johnson (Senior Vice President for the Environmentally and Socially Sustainable Development Network, World Bank)

Judith Edstrom (Sector Manager for Social Development, World Bank)

Irungu Houghton (US Program Coordinator, ActionAidUSA)

Mike Jendrzeczyk (Washington Director, Asia Division, Human Rights Watch)

Sponsored by: The Institute for the Study of International Migration, Edmund A. Walsh School of Foreign Service (www.georgetown.edu/sfs/programs/isim/) tel: 202 687-2406 and the Advocacy Project (www.advocacynet.org) tel: 202 332-3900.

Iain Guest: Thank you for coming. This is the sixth meeting of the Human Rights Forum, which is organized by the Institute for the Study of International Migration at Georgetown University. The purpose is to create a platform for a discussion for human rights issues that are important and also quite tough. Few issues are as tough or important as the one we are going to discuss today.

There is a tremendous amount of interest in the World Bank and its human rights role, both among the human rights community and also here on campus. I can tell you that globalization is the hottest topic in my course this semester! It is also very close to home here in Washington. It is exactly the kind of issue that should be debated here on campus.

We've invited over four experts who are very much a part of this debate. Ian Johnson is the World Bank's Vice President for environmentally and sustainable development. Human rights falls under his vice-

presidency. He is also heading an internal task force on human rights at the Bank, which will be making recommendations to the World Bank President. Next to him is Judith Edstrom, Sector Manager for Social Development at the Bank. Together, they represent the key human rights focal point within the Bank. So we are very fortunate that they are here and very grateful to them for attending.

Non governmental organizations have also formed their own informal coordinating group to lobby with the Bank on human rights, and we have two representatives from that group here today. Irungu Houghton is the Program Coordinator for Action Aid USA in Washington. Irungu has also been very involved in development in the field in Africa. Mike Jendrzeczyk has had a long career in human rights, first with Amnesty International and then with Human Rights Watch. And he now heads the Asia Division on Human Rights Watch here in Washington.

We've agreed that it might save some time if I set out some of the issues briefly, in advance. I hope you will bear with me while I do that.

The World Bank was set up in 1947 with a mandate to promote reconstruction and development. Last year it loaned almost 20 billion dollars to over a hundred developing countries. It is an institution of enormous power - and that power goes way beyond money. When the Bank lends money to a government it is a mark of approval from the international community. It opens up a lot of money and had a considerable impact.

Why the controversy over human rights? Let me summarize some of the major concerns of the human rights community.

First of all, large projects which receive funding from the World Bank often have a damaging impact on human rights. For example, they cause forcible displacement and have a particularly harmful impact on indigenous peoples. There are many examples of this going back to the early 1980's, when the Bank was criticized by the environmental movement for funding a highway that ran through the Amazon. There is a current controversy over a pipeline that takes oil from Chad to Cameroon, which I am sure some of you have also read about.

Second concern - the impact of the model of development which is promoted by the World Bank, particularly structural adjustment lending. These loans are meant to strengthen the economy of the borrowing country over the long-term. But critics maintain that they result in severe austerity measures which have a damaging impact on the poor and can also cause a political backlash. In Ecuador, two or three governments have fallen within the last ten years as a result of the imposition of structural adjustment policies. I think this is why the Bank has become such a lightning rod for concerns about globalization.

Thirdly, the Bank lends money to governments that violate human rights. This goes way back to the period of the 1960's when the Bank offered loans to the South African government over the objections of the United Nations. (I was recently reading a letter that was sent by the Human Rights Watch to the Bank's President at the end of 1999, complaining about loans to the Russian Federation. Human Rights Watch wanted \$100 million worth of loans stopped because of the war in Chechnya.)

There are many other concerns which I am sure our NGO friends will touch on: the secrecy of the Bank's Board of governors; the Bank's unwillingness to disclose information about its projects; doubts about whether the Bank is serious about listening to complaints from people who are affected by Bank projects.

So to sum up, there is a concern within the human rights community that the Bank's policies do impact human rights; that the Bank is unwilling to face up to this and accept responsibility. The Bank hides behind its articles of agreement, which we will discuss in a moment. It maintains that it not bound by international human rights standards and norms.

Now, the Bank's counter-arguments are not heard that often. Maybe they deserve to be heard, more clearly and more often.

Broadly speaking, as I am sure many of you know, the Bank's articles prevent it from interfering in the domestic affairs of the governments and from taking a political position. Its mandate is economic development. It is not the UN High Commissioner for Human Rights. All this means that the Bank cannot directly challenge governments over human rights abuses and policies.

However, within these constraints, Bank officials like Mr. Johnson and Ms. Edstrom would say they have managed to achieve and meet many of the concerns that have just been laid out. For example - and this is set out very clearly in a Bank paper that was released in 1998 - the Bank says that by providing money for schools for agriculture, for hospitals, for health, it is doing more to protect human rights than many of those resolutions passed at the UN Human Rights Commission. The Bank has a practical impact - particularly on economic and social rights, which is the poor stepchild of international human rights.

Secondly, the Bank *is* engaged politically. It is training judges. It is building (law) courts. It has a very extensive rule of law program. And this has to have a very direct impact on human rights. If you are waiting in jail for a trial in Uganda, the chances are you could die because the process takes so long. So by lending to the government of Uganda to develop the judicial system in Uganda, the Bank is addressing that very real abuse.

It is addressing corruption and it is promoting transparency. This allows for money to be allocated where it is needed and it also indirectly supports and benefits democracy. The Bank is involved in many post-conflict situations. It is supporting the peace process in Guatemala, and it is supporting civil society in the Palestinian territories.

All of these roles are highly "political." In other words, the Bank's articles may prevent it from political engagement. But actually, it is doing a very political job. It is "interfering" in the domestic affairs of governments by supporting civil society. This has been a very big push by the Bank in recent years. Take the way poverty strategies are developed in countries through the poverty reduction strategy papers. This is done with civil society - and the more you support civil society, the more you challenge central governments.

Third, the impact of Bank projects. The Bank has adopted a series of operational policies on resettlement, on indigenous people, on environmental impact assessment, which are meant to provide safeguards. It also has an inspection panel with three members (one of whom, incidentally, is a Georgetown professor, Edith Brown-Weiss) which can hear complaints from two or more people who feel they have been harmed by World Bank project. That inspection panel has heard about 30 cases since it was set up in 1994.

Fourth, participation. The Bank is encouraging, promoting and supporting participation in the field as well as here in Washington DC. And for us in the human rights movement participation is a key right.

Formally the Bank's articles prevent it from interference, and taking a "political" position. But in practice, the

Bank's officials would maintain it is doing a lot of what the human right community would like it to do.

Finally, I would suggest that (this issue) raises some quite important strategic questions for the human rights community. It asks us to remember who calls the shots in the Bank - and they are not always officials like Mr. Johnson and Ms. Edstrom. The World Bank's board has tremendous power. I have heard from many in the Bank that if you push too hard on the people you want to talk to within the Bank, then it can backfire.

Secondly, does the human rights community *want* the Bank to play the role of a human rights commissioner and put governments on the spot? Would that not weaken the Bank's efforts to lend money to poor countries that really have no other way of getting hold of money? Does the human rights community really want the Bank to exercise more conditionality - to withhold money from governments that violate human rights and to reward governments that respect human right? Remember - the Bank lends money to poor countries. It does not lend money to my government, Britain, or your government the US. It lends to poor countries. So if we are asking the Bank to impose condition on its borrowers, is this not another form of selectivity?

With these remarks, it is time to turn to our panelists. The two sides that are represented at the table have told us emphatically that they are seeking information, not a confrontation. The NGOs are very keen to know about this working group in the Bank that is headed by Mr. Johnson. They want to know if it is going to disappear into the Bank's bureaucracy, and whether or not it is going to come up with recommendations that will be listened to, particularly by the operational people at the World Bank.

I imagine they'd also like to know how the NGO and human rights communities can contribute. Will the Bank be appointing a human rights expert as a human rights focal point?

On the Bank side, Mr. Johnson has been asked by the President of the World Bank to come up with practical recommendations, and that's really why he is here. He wants to know what the human rights community would like of the Bank, and how the Bank could and should change - if that's what the human rights community wants. He'd also like to know precisely what is meant by a "rights-based approach" to development. This is a term that's often thrown around and very frequently not defined particularly very well.

We thought that Mike and Irungu could start off from the NGO position. Then Ian and Judith could respond. We'll then open the floor up to questions. We have until 2 o'clock if we need it. So without further ado, over to you Mike and Irungu.

Irungu Houghton (ActionAidUSA):

Thank you very much, Iain. Good morning. It is not customary for the NGO representatives to speak first, so some of you may impute in this that there has been a shift in power (laughter). I'd like to say that there has been no shift in power. But it is an opportunity that I relish in a sense, because it means that we, as organizations outside of a powerful institution, can try and set some agenda for the institution and make (it) accountable to demands and needs that are outside of (its) own bureaucratic systems.

I work for an organization called ActionAid. We work in several countries across the world. And we work primarily in those countries which have a high concentration of poor people - countries where poor people live and struggle to achieve a kind of life of dignity. We really approach this subject from that perspective: (To build) space that is required at community and national levels. To be able to define and to determine

empowerment strategies that allow for people to work on poverty and work toward wealth and security.

Essentially, I'd like to cover four issues:

- The definition of basic human rights.
- The issue of (the Bank's) Statute, and the claim that is made by the Board and management of the Bank that the mandate of the institution prevents it from engaging in this arena.
- The claim that anti-poverty programs are by their necessity human rights-focussed, or that they are within a framework of human rights.
- To try and draw out some propositions and some suggestions for those allies in the Bank that want to push this agenda forward. What are be the things we would be looking for as a community outside of the Bank to see that there is some due diligence being paid to this issue?

As I began preparing for this presentation I remembered proverb that begins like this: "If someone wants to roast you, do not smear yourself with oil and sit by a fireside waiting for them." And it very much captures some of the anxiety within the World Bank at the moment - that touching on the human rights issue is like smearing yourself with oil; that the fire exists and is real; that there is a case to answer on human rights violations; (and) that (responding would cause) this barrage of concerns to appear in a new and much more propelled manner.

I think this is a legitimate fear. I think we need to start off by saying that, even though there are also elements that suggest that this is not such a new thing. It does require that certain fundamental changes to be made within the Bank. It's something that you can just paint over.

The definition of poverty: For those of you in academic institutions, there are a tremendous number of concepts and theories about poverty, rights, entitlements and so on. I would just like to offer one that I think has been pretty useful for me in terms of how I've approached the "rights frame-work." Again this may be an area for discussion.

Poverty is essentially the erosion of the human rights entitlements and capabilities. A poor person has been stripped of his capacity to be able to produce effectively, to be able to reproduce in a dignified manner, and to be able to live in a life of dignity. That essential is what we're talking about when it comes to poverty. Human rights abuses therefore lead to poverty and impoverishment.

There has been huge debate about breaking these into separate forms of rights - civil and political liberties on one hand, and economic, social and cultural rights on the other hand. I would argue at this point that it is not important. What it important is the recognition of the intrinsic link between poverty and rights.

With that definition in mind, it seems clear - as Iain has said - that the idea that the Bank's statutes and mandates prohibit "interference" by the Bank is patently false. The World Bank is a political institution. It has been political. Its very act of establishment is a political act and it continues to intervene politically in the domestic affairs of countries, like my own, and like the countries that all of you come from. This includes those of you that live in the north. The only difference is that your governments have more power.

If you look at the main function of the Bank - budgetary support, aid flows, conditionality (and we now see an increase in the number of conditionalites to include corruption, governments, rule of law) engagement with civil society. These all are means by which the World Bank patently involves itself in the political affairs of governments. I think that's just a fact.

If the World Bank was to exist on paper, we might say perhaps that the statutes and mandates prohibit interference. But it does not exist on paper alone. It is a living institution which impacts daily on several countries across the world.

We need to be looking at the *political* choices that the World Bank is making. When the Bank (and for that matter the IMF) makes the choice to advise governments, it does so essentially in three areas:

- The sustainability of debt payments;
- Enabling environment for foreign investment;
- Downsizing of the state.

Should the Bank's many projects and programs all be equated to a human rights focus? The answer is no. If that was the case, then every single institution that is working on development would be a human rights organization. We would lose the focus of a rights-based approach.

It is true that the Bank's work on health and education does support governments to realize the right to education and health. But if it is accompanied by conditionality around cost recovery and fees on access to primary schools, or fees on access to basic health care, or fees on access to water systems, then universal access is actually subverted in its own context. You produce lots of resources, but at the end of the day - as we have seen across the world - the figures of the people living in poverty are just not improving (according to most indicators).

The other issue that that needs to be thought through a little - and I hope that both Ian Johnson and Judith can both speak to this - is the Bank's attempt to try and separate civil and political liberties from economic to social and cultural rights. One of the concerns that I have is that the Bank is beginning to focus only on civil political rights and liberties (rule of law and so on) which are individual rights perhaps but not necessarily group rights.

Take the movement for the survival of the Ogoni people in Nigeria. Most of you are aware of this case. It took place after thousands of people tried to rally around land degradation and water contamination that was created by transnational corporations. There were violations both of the economic and social and cultural rights violations, but also civil and political liberties. The case essentially showed that it is not possible to separate those two. You cannot focus on rule of law, without focusing on the economic social and cultural rights of the Ogoni people.

I'd like now perhaps to look at the issue of shifts. Great confusion exists about whether the "Washington Consensus" - that big gamut of philosophies and world views that the World Bank and IMF have been working with - has died, resurrected or is dormant.

It is quite clear that the Bank *has an opportunity* to embrace a rights-based framework. This would give it a paradigm that would help the institution work itself out of this impasse. I think this is a compelling point. This paradigm would give an operational framework to the Bank to be able to say very clearly where it stands on various issues.

(The paradigm would allow the Bank to) conduct poverty-social issues assessments, which could cover accountability to rights as laid down by various conventions ratified by governments. The Bank could join and not get left behind by the vast range of UN agencies that have began to work on this issue. The promotions of Bank staff could be linked not to the number or the volume of the aid that is passed, but to the extent to which human standards are met in each of the specific countries.

There could be ways in which the Bank ensures that it neither does no harm (which is the violation side) but it also becomes part of the matrix of accountability that is building within the countries in the South.

Rights as obligations. Rights as means. Rights as a way of engaging poor people to stake out their claims on government - what it is they expect government to do?

I'd like to invoke an example from my own country, Kenya. We are in the process of moving through a constitutional review agenda. The existing constitution states (in the first three statutes) that the government has an obligation to pay back foreign creditors. Then it has an obligation to pay its civil service. It is only below that, that you begin to get to the bill of rights – and even then it is silent on economic, social and cultural rights.

My government obviously has actually prioritized debts, the balance of payments, fiscal deficits over the needs of its own people. That is a direct consequence of the type of relationship that the World Bank has had with our governments over the last thirty to forty years.

If they were to shift that, then you might see a growing domestic accountability within our countries not just Kenya but elsewhere in the world - Nepal, Vietnam, Haiti, Guatemala. We would see that happening. But we would not see that unless there is a shift in paradigm within the Bank.

For those of you who are concerned about aid flows, aid effectiveness should be measured on the basis of what citizens can demand of their state - what it is they want the state to do; how (the state) proposes to generate the resources to do it; and how these resources must be spent.

I'd like to stop there and thank you. (Applause)

Mike Jendrzeczyk (Human Rights Watch):

The World Bank has published a document which you can find on their website outlining the Bank's approach to human rights. I'd like to start by quoting it because I think it provides a useful framework for this discussion.

It says first of all that the World Bank believes that creating conditions for the attainment of human rights is a "central and irreducible goal for development." Pretty strong language!

The document also acknowledges that while the Bank has always taken measures to ensure that human rights is respected in carrying out its own projects, it has been less forthcoming about articulating its role in promoting human rights within the countries where it operates. Again that is a direct quote.

Now others have alluded to the articles of agreement. And it's true the articles of agreement explicitly state that Bank decision-making should be based only on economic considerations. That is exactly the way the charter reads.

However, the document published in 1998 goes on to say that by supporting primary education, health care

and environmental projects, the Bank is helping to attain crucial economic and social rights. And by helping to fight corruption, improve transparency and accountability in governance, it is helping to contribute to build an environment in which people are better able to pursue a broader range of human rights.

I think this is very important to look at - especially this last statement.

On the positive side, clearly the Bank has made enormous progress in recent years. Previously it would resist vehemently even having this discussion – internally and certainly not in a public arena such as this. Now in fact the Bank *is* engaged in this discussion, both internally and publicly.

But at the same time, by stressing that the Bank's role is an indirect one, aimed at creating an environment in which the broad spectrum of rights might be protected, Bank officials are clearly selectively interpreting what aspects of the Universal Declaration of Human Rights the Bank will focus on. (They are) clearly differentiating between economic social and cultural rights on the one hand, and civil and political rights on the other hand - rather than seeing how closely these two are related.

By strategically focusing on this very linkage the Bank's voice could make a serious and significant impact and difference. I think in fact that is precisely what the Bank is struggling towards - a more holistic approach that could inform its thinking and its strategy so it can address the full spectrum of rights.

The new UN High Commissioner for Human Rights, Sergio Vieira de Mello, a Brazilian, has extensive experience both on the rights side and on the development side of the equation. And I think this would be an opportunity for the Bank to engage with him to help discover strategies where the Bank could be fully involved across the spectrum.

My organization, Human Rights Watch, a nongovernmental organization, has discussed the firm way in which the Bank divides these two sets of rights, with the Bank: with the Bank's Legal Office, with people at the operational level, at the vice-presidential level, and at various levels in the Bank. I think the good news is that they are engaged again in this discussion. They are willing to at least to entertain the notion that there is a close linkage, and that this division is rather arbitrary.

As Iain mentioned in the opening, the World Bank President Wolfensohn has now opened the door for this wider discussion at a seminar he called for this past May. In fact the very question Mr. Wolfensohn himself posed is in fact the bottom line. He asked: "How far should the Bank go in supporting the notion that protecting human rights is the basis for poverty alleviation? How far should we go out on that political limb?" And this is where the very practical operational consideration come into play.

I'd like to throw out a few observations and a few very specific suggestions and some examples - both negative and positive - that I think might point the way for some of this discussion.

First of all, clearly, the Bank has a long way to go in operationalizing its current commitments. It is now committed to fight against and curb child labor. It is committed to exposing corruption. (This was previously a taboo subject the Bank would not touch with a ten-foot or a twenty-foot pole in its operational work or its dialogue with governments.) It is - theoretically - committed to promoting good governance, rule of law, and transparency - the kinds of words we heard bandied about her this morning. However, I would still argue there is a long way to go to actually operationalize these general principles, policies and commitments.

Also I would argue that on some very important new emerging social issues like HIV/AIDS and the internet the Bank is at a pivotal position. It can perform an enormously important role at the very nexus where human rights and development concerns come together. I'll add to this point later.

The rule of law and legal reform. It's true the Bank is committed to building transparent and open legal and judicial systems. But thus far, most if not all of the Bank's resources in most of the countries where it is active have been devoted to commercial and civil law reform - not basic criminal and penal law reform.

I think this is a key problem, certainly in the region of the world where I work - Vietnam, China. There is no way you can root out official corruption without a truly independent judiciary. If the judges and the lawyers are in the back pocket of corrupt party officials, there is no way they can either protect the civil liberties and rights of Chinese or Vietnamese citizens - or hold accountable public officials who are taking money out of the public till. So I think this is where the Bank still has a major leap to make.

Now in some discussions we have had, the Bank argues: "Look, we do not have the technical expertise in this area. The UN Development Program and other agencies are far better suited to do this kind of work." That may be the case, but I think that the Bank *should develop* the expertise. It should work in conjunction with NGOs and other agencies to take on the fundamental reform of legal and judicial systems, if it is in fact serious about rooting out corruption.

Secondly, when it comes to promoting the rights of poor people, and asserting their rights and their needs as the Bank develops poverty reduction strategies, the Bank can make very concrete contributions. Take the case of China.

The Chinese legal system is now trying to establish legal aid centers throughout rural China. This covers the poor provinces and areas of China that are not benefiting from the economic development which is mainly going in the coastal areas and the large cities.

We have asked the Bank: "Can't you do something to assist in the development of these legal aid centers and (encourage them) to work with trafficked women, unemployed workers, ethnic minorities who have claimed the impact of economic dislocation?" We have talked to the Bank about this several times. Thus far they are not interested. That's not our role, they say.

I think it should be their role. I think precisely the role of legal aid centers in a country like China, which is in the midst of a major transition, is precisely where the Bank should be making its voice heard and giving the weight of its technical expertise. This should be part of an overall poverty reduction strategy if the Bank is serious about pursuing those objectives in a huge and complicated country like China.

Civil Society: Beyond the areas of legal and judicial reform, we have heard a little bit here this morning about the role of nongovernmental organizations. The Bank, to its credit, now has civil society specialists and liaison staff in (many of) its field offices. Their role theoretically is to get the input of NGOs across the board as they develop poverty reduction strategies and projects.

In a few cases like Cambodia and Indonesia that I'm familiar with, nongovernmental organizations have actually been invited to the annual donor meetings convened by the Bank for all the bilateral donors. This is

where commitments are made and donor strategies are hammered out. But again this is the exception not the rule. This is not going on in most parts of the world.

But I think, even more than that, the Bank has an obligation to *protect* NGOs, especially where they are under attack or under pressure. This is precisely because NGOs are on the front line of the very issues that the Bank is committed to.

One case last year involved a London-based nongovernmental agency in Cambodia called Global Witness. Global Witness has staff in Phnom Penh who are monitoring illegal logging and reporting directly to the IMF and to the donors. One of the staff people had her life threatened and was beaten up late at night by masked men outside the office.

To the Bank's credit, the Bank weighed in with Cambodian government. A senior official sent a letter to the Cambodian authorities demanding an investigation. I think the Bank's voice was very important here - in conjunction with the voice of other diplomats and ambassadors - weighing in on behalf of other bilateral donors.

That was a fairly easy case where the Bank could see very clearly that its interests were at stake. However, let me give you another case. A few years ago a Chinese lawyer set up an independent nongovernmental organization in China with 300 members in seventeen provinces to monitor and expose world corruption. He tried to register the group with the Ministry of Civil Affairs. The group was deemed illegal. He was put on trial for subversion.

Before the trial happened, he went to the Bank and said quietly: "Could you raise concern about his case?" We also made clear the message that it would send about the role of independent watchdogs in China if he was put on trial and thrown in prison. The Bank waited awhile and finally got back to us, and said: "Sorry we're not going to do that." And he subsequently got a four-year prison sentence on charges of subversion which he is now serving.

Now here is a case where I think the Bank would lose very little. Clearly China is not going to throw the Bank out of the country when they get \$563 million - as they did last year - for *privately* raising concerns about one lawyer who is about to go on trial. On the positive side, I think the Bank would send a very strong signal that it is serious about the role of civil society in a developing economy like China's and the role of NGOs in activities like exposing corruption.

Similarly, when it comes to the internet - a third issue I want to comment on just briefly. Here of course the Bank has played a very important role in trying to get the internet introduced, especially in developing countries where it is a crucial engine for social and economic reform. Mr. Wolfensohn has spoken repeatedly about reducing the "digital divide." There is no question that there is an enormous amount of work that can be in this area.

But beyond the kind of work the Bank is already doing, I think it could go further to ensure that when the internet is used to promote democratic reforms and to call for an end of corruption, those who *use the internet in these ways* are not therefore vulnerable to persecution or attack. This is the case not only in China but in Vietnam and in a number of other countries, where people are literally thrown in prison for using the internet in this way.

I hate to keep bringing up negative examples but here is another one. A couple of years ago, a computer operator named Huong Qi (from Chengdu in Sichuan province) went on trial in China for setting up the first human rights web site.* This was at a time when internet companies outside of China were scrambling to get a foothold inside the country.

When he was first charged, his case got an enormous amount of attention in the media and was raised by a number of governments. And again privately we went to the Bank and asked: "Couldn't you express concern about this to the Chinese authorities? Say that if they want the internet to be fully employed inside China, they can't arbitrarily restrict its use? That there are fundamental obligations to protect the right of free expression - Article 19, for example under the International Covenant on Civil and Political Rights - which China has signed but not yet ratified. That they would be violated if these kinds of cases go forward?"

Again the Bank declined. We're not sure exactly why, but I have heard in the last several months that the Bank is interested in developing its long-term relationship with the Chinese government and that raising a case like this might in some way jeopardize that. Frankly, I have a hard time swallowing that argument.

Finally on the issue of HIV/AIDS. Here again I would give the Bank a great deal of credit, especially in recent months, for mobilizing millions of dollars for HIV/AIDS prevention and treatment around the world. What Bill Gates has just done in India is just one of many, many, spin-offs of that kind of effort.

However, this *general commitment* - which I think is growing on the part of not just Bank management but key donors - isn't always backed up by committing the same kind of resources to monitor and evaluate the human rights impact on HIV/AIDS of government practices in a number of key countries.

We published this past July for example an extensive study of India. In India the HIV/AIDS crisis is reaching epidemic proportions. The government recently admitted now four million Indians now have the virus. That makes it the second largest population outside of South Africa. The Bank, I should add, is the number one donor for the national HIV/AIDS treatment program in India, giving about 200 million dollars.

However, we've also documented that while on the one hand the public health ministries in India are committed to this, law enforcement is not. We documented in this report case after case of HIV/AIDS workers - those working especially with prostitutes and men who have sex with men - being beaten up, harassed, arrested and abused by Indian law enforcement. This directly undercuts the work precisely of the constituencies and the communities that the Bank is committed to helping. And we have asked the Bank to ensure that the regular monitoring and reporting on the human right violations that directly impact HIV/AIDS work in India be part of the Bank's administration of this 200 million-dollar loan.

In fact, tomorrow we are taking one of the key HIV/AIDS workers from India to the Bank to talk to people in the South Asia department of the Bank precisely about how the Bank can use its enormous leverage to stop this kind of abuse and harassment.

And I want to end on that rather positive note because I do think there is a great deal of good will emerging in various parts of the Bank. Human Rights Watch and others work with NGOs around the world who would like to engage with the Bank as an active partner in promoting human rights as part and parcel of the Bank's long-term agenda to promoting sustainable development.

To go back to the Bank's own rhetoric. They have said it themselves: you cannot have sustainable

development without protection of basic human rights. The question is - how can the Bank contribute to that effort? Thank you. (Applause).

Ian Johnson (World Bank):

First I think staff in the Bank care very deeply about human rights for many, many reasons. The main mission of the Bank is poverty alleviation, and there is clearly a link. Most people join the Bank because they believe in the mission of the Bank. They come from many of the countries where many of the abuses that Mike and Irungu have spoken about. It's part of coming to an institution that can make a difference.

I thought I might talk briefly about what I see as a very changing landscape. I think things are not black and white as we move forward, and this applies particularly to the articles of agreement. I'll talk a bit about what we're doing on the task force and perhaps end up with a few comments about some of the points made by Mike and Irungu.

Understanding Poverty: First, I think that there has been a shift in our understanding and thinking of poverty. It started twenty to thirty years ago as a per capita income concept. If you were above a certain income threshold, you weren't poor. But some of the poorest people I've ever seen in the world are in this city. Certainly they can earn just about enough. Certainly they can get access to basic services. But they are the most impoverished because they are the most disenfranchised people I've ever seen. If you go and see people sitting on the streets in this city it is atrocious.

So I think on our side, our understanding of poverty has shifted *from per capita income to per capita income plus access to basic services*. How do you get access to basic services - primary education, primary health care and the like?

Then a few years ago we moved to a better understanding of exclusion; inclusion; and disenfranchisement - the extent to which people are fragile or vulnerable within the society. It is these three legs of the poverty stool which matter. Frankly, it is easier to operationalize the first two than the third and I think this is one of the areas we are struggling with. But I do think there has been a major shift in our thinking on poverty.

Safeguard policies: Similarly we have done a lot of thinking, coming out of the environmental movement about fifteen years ago, of environmental and social policies. We call these our safeguard policies. We use them to try and mitigate against harm done to third parties. They started essentially as environmental policies, but they have shifted more toward social policies related to indigenous peoples and (other) people affected by projects that are financed by the Bank. I'm increasingly trying to get others to understand that these policies are useful in determining outcomes with respect to third parties.

These policies, by the way, are the most stringent of any institution in the world. We don't say we implement them perfectly, but comparative organizations mostly don't have them. Export credit agencies (which are becoming much, much bigger financiers than the World Bank and financing very big projects around the world - including those in China), don't have the kinds of policies we have. So we have on the books very good policies.

Inspection Panel: About ten years ago (the Bank created an) inspection panel, which allows for people who believe they have been impacted negatively by a World Bank-financed project to seek recourse and go directly to this panel. As Iain mentioned, one of the members is from Georgetown. The others are from the

Netherlands and from Ghana. They can and do report directly to our board. They don't report to management structure. They look for any violations of any of our policies.

We have about 1500 projects on the books at this point. Round about twenty-seven projects have been reviewed by this inspection panel. In some cases - China and elsewhere – the inspectors have found cases where we haven't complied with our own policies and we've had to take action.

This I think is a useful institutional innovation. Again, I don't think there is any institution has anything comparable. And it is beginning to work quite well. The inspection panel has covered some very complex projects. And it has done, in my judgement, careful, independent due diligence. In some cases they found we haven't done the right thing, and in some cases we have. But I think it is a useful and very very innovative institutional approach.

Community-Driven development: Next, we've moved very much to community-driven development. I'm going to comment in a moment on how the Bank works and lends, because being a lender makes things somewhat more complex than if you provide grants. But we have been lending to community-driven development. About 2 billion dollars of our portfolio goes to empowering small communities - everything ranging from agriculture to health to education and many other aspects.

We've decentralized the Bank completely. In some places - Mike spoke about South Asia - most of the staff is in the field and some of the staff are local. That is beginning to get us much closer to the sort of detail that frankly we used to miss. We operated at 30,000 feet and didn't know what was going on. That is changing. I don't say that it's changing perfectly but it is changing dramatically. In every one of our resident offices we have NGO liaison officers that deal with civil society. In pretty much every one of those we have a small fund that can go directly to civil society organizations. It's far too small and we'd like to see it grow, but it is there.

Post-conflict: As Iain mentioned, (post conflict) us something we weren't involved with ten years or so ago. We've moved very much into post-conflict and we have a unit that deals with post-conflict and reports to me and Judith. We've focussed on some pre-conflict. It's early days but there's been very promising work closely associated with human rights issues.

Corruption: Finally, we have tackled the issue of corruption. Corruption, by the way, occurs in developed countries as much as in developing countries. When we blacklist companies they are very rarely from developing countries. They tend to be developed country companies. This is something that Jim Wolfensohn, our president, took on. As Irungu said, 10 –15 years ago we couldn't have talked about corruption. Corruption was political, human rights was political and we couldn't come and talk about it! That's a major change in my view.

So I think the elements are in place of a move towards something that's not that far away from a common position with Irungu and Mike. There are constraints on us which I'll come to in a moment.

In terms of the human rights discussion, as Iain said, we are in the midst of some preliminary discussions. I am heading a small task team. Judith is the task manager, and I will ask her to talk about that in a moment.

(The challenge comes in) trying to ground the work with the various internal constituencies in the Bank. In no particular order:

Our legal colleagues are clearly concerned about the articles of agreement. My own instincts tell me that there is a much less rigid interpretation today than 30 years ago. I could not have been here ten years ago, let alone twenty years ago, talking about what we are talking about.

I think there *is* a closer marriage between political and civil and economic (rights). What we're trying to judge at this point is not the *closeness* of that relationship, but where are the boundaries. So I don't think it's a question of saying one is on one side, and one is on the other, but asking where those boundaries lie.

Second, we're working with external affairs colleagues. We have a colleague in Geneva who is very interested, and who is taking a leadership role in Geneva on human rights issues. (He's) looking at the UN issues - where does the UN position itself and how do we relate to the UN in terms of human rights writ large.

Third is our own social policy group. Ten years ago we had one sociologist. Today, we have (well over) 100 sociologists and socio-anthropologists - probably about 150 staff - who are at the core of our work on civil society. They are working on inclusion, working on indigenous peoples rights, working on disenfranchisement, transparency issues and the like. We are trying to expand that number very fast. (It is very very hard to find people to fill the positions.)

Operations: The fourth constituency inside the Bank - and in some ways the most important for us - is operations. We may be big and powerful, as Iain said, but we are \$20 billion out of a \$37.5 trillion economy globally. We're more important in smaller countries than we are in big countries. I wish it wasn't always the case, for in many cases it is some of the larger countries where some of the egregious activities take place. But that is a reality.

In operations, the question which comes back over and over to me - and the one that I have to answer - is "what difference does it make operationally?" If we formally embody issues of human rights in our makeup - if we embody the "rights-based" approach to development - what difference does it really make? And aren't we doing this at the moment? Can we do more of this?

I think yes. For example, take the legal and judicial reform program which is very innovative in the Bank. The legal department was never ever allowed to provide technical assistance to countries. They are now, and we are moving very fast at providing technical assistance. I was just looking at some stuff going on in Ecuador. It is just fascinating work, in which our legal department is providing technical assistance on legal issues around spousal abuse, and then working with local social welfare organizations to link them in with the judiciary. I think it's a fascinating piece of work that really (points to) the future of the Bank in much of this capacity-building.

But there-in lies a real constraint. It links to something Mike talked about. He gave us credit for doing some of this, but didn't give us credit for doing enough. We could make a major leap but if the *demand* is not there, you can do all the capacity-building you want with the formal legal system and it's going to fail. So the question in our mind has constantly been how do we create that demand so that we can move on a much bigger scale?

I don't think, Mike, that the problems is technical. We recreate and create and recreate our own comparative advantage. When I joined the Bank there were two people working on health care. (Health) now accounts for 23 % of our lending. There was nobody on education. There was nobody working on environment. We have

250 people working on environment today.

That's not our constraint. The real constraint is how do we create effective demand. And the lesson we have learned is that if you force things on countries that they don't want, it won't work. So the question about judicial reform is not the potential for demand, which I think is overwhelmingly large in almost all countries we deal with. It really is whether we can create a conducive environment for creating the demand.

The Board of Directors. The final constituency for us in a way is our executive board of directors. All but two countries in the world are represented at the Bank's board. (The two that are not represented are Cuba and North Korea, simply because they are not members of the World Bank.) Everyone has a representative, typically drawn from either a Ministry of Development Cooperation or a Ministry of Finance, or in some cases Treasury. That, typically, is the make-up of our board here in Washington.

We have a board of 24 who represent constituencies. Many have said it is unfairly and unequitably distributed. The US is our largest shareholder. It doesn't have a majority but it is our largest shareholder. We only have two representatives from Africa, which always struck me as a bit unfair by any standards. But that's linked (the system is linked to) the share-holder concept rather than the stakeholder concept. It is, at a voting level, one dollar one vote not one country one vote.

The board operates more by consensus, but they have a broad range of views about our engagement on this issue. It is like walking on eggshells that have been placed on thin ice. We hear everything from people who say "do" to everyone who says "don't" and everything in between.

Crafting an approach that would bring our board along is very important. There's very little I would disagree with about what my colleagues have said about the importance (of human rights) or even the examples they've given, both positive and negative. But this is such an important issue that it is inconceivable that we could get away with taking staff decisions or management decisions that the board wouldn't want to know about.

So we have to engage in an educational process also with our executive board. And I think this needs to rest on whether we meet our objectives of reducing poverty and bringing people out of poverty. (As I said earlier, poverty is) defined both in per capita income terms and access to basic services - but also defined in terms of whether they play a meaningful role in society; whether they're empowered; whether they feel a sense of self-worth etc. We have made that case. We now need to operationalize it in a way, and then link it with the human rights story.

In terms of our work program finally, one of the things we did was to review and discuss it with comparator organizations - DFID (the UK development aid organization), UNDP, UNICEF. I have looked at this very, very carefully and with the possible exception of UNICEF, I must say that while there is good rhetoric on the books, I don't see what any of the organizations are doing differently the day after they announce these policies from the day before.

I think that that is an issue that for me. That's why I need people like Irungu and Mike and Iain to tell us what we might do differently.

Would we do the same things but more of them - which is one suggestion Mike is making? Or are there things we would do differently? And when we are doing them differently, we have to test them against out

articles of agreement. Like any organisation - like Georgetown University – we are bound by your legal articles of agreement. I don't see those as being as binding frankly as many people have put on the table. I think ten years ago they were, but I think that's changing.

Relations with the UN: We've had discussions with Mary Robinson. I've not met Sergio Vieira de Mello. I know him from other lives and I think he's a great choice because he brings together the conflict dimension as well.

Certainly the UN has put forward guidelines on linking PRSP (poverty reductions strategy papers) with human rights. They come with four points:

1. More meaningful identification with the poor, with greater focus on the attributes and differential impacts on public policy;
2. Equality and non-discrimination, following on more focussed analysis of the attributes of the more vulnerable groups including women; developing strategies for social inclusion.
3. Participation and empowerment; increasing participation at designed decision and implementation stages;
4. Accountability and transparency systems and policies which help to increase these.

We are in alignment on that. I think the difficulty sometimes is *how*, not *whether* to do it.

Finally, if I could touch on some of the comments raised by my colleagues. It is indeed on the "how to." You walk a fine line when you lend money to governments. There are limitations. I can think of two cases that I've been personally involved in (one of them with my President) where the Bank made a very low key but positive effort for NGOs that we felt were indeed either in danger or having their rights abused.

There may other cases where there is a judgement call - where we may not add value or cannot achieve the objective. I don't quite know how to play that, because we are not like most bilateral aid organizations that have behind them a ministry of foreign affairs which has all the diplomatic skills and takes views on how or how not to engage.

One of the ways in which we could perhaps get that, is by in some broad sense thinking of our UN sisters as the equivalent of our Ministry of Foreign Affairs, and working more closely with the UN on these issues. That is something that I think is promising. We need to work much more closely with the UN than we have done. Having said that I think we have started that relationship.

On bringing NGOs and civil societies into the debate on PRSP (poverty reduction strategy papers), I would say first that it's a requirement for us. I don't say we've done it as well as we need to, but it is a requirement. Mike said it's an exception not the rule. My sense is that it is closer to the rule than the exception. But I think the quality of which we have done is very variable. Our job is to bring the quality of that discussion up.

Finally, I think, on the rule of law. We can do more. We should do more. But we have to see how we create the *demand* to do more. In the absence of that it will be difficult. Let me stop there and ask Judith to say a few words. (applause)

Judith Edstrom:

I just will say a few words because I think we want to open it up for questions and comments.

I would say that we are very much in alignment with other agencies in terms of looking at what might be a rights-based approach but which we might call "ethical public policy." I think this has to do with (the way we have) moved with our concept for poverty - from income, to risk safety nets, to a reduction of vulnerability, to an actual issue of dignity. This is something that we are moving to. It is very important but intangible. There is a sense that agencies should work to strengthen the enabling, the capacities of people so they could express their rights.

The human rights area is a complex one because by definition a right is something that is an entitlement that incurs an obligation on someone else. Of course this is open to interpretation.

Let me give you an example. There are individual rights and there is group rights. This comes up in the case of HIV /AIDS. Companies in South Africa, given the extreme nature of the epidemic there, have decided to test all workers. They realize that they need to keep their work force and they need to address this and help them. Certainly in this country it would be a denial of the individual rights of a person to have to submit to such a test and have to be tested for it. But this is where you come into a question of what kinds of rights should apply in different situations and what are the rights of society. This sometimes poses a difficulty. You know between the ACLU and other groups on human rights there is not always a common accord. That poses some problems.

However, I would say that we (at the bank) are moving into this area, because we recognise that the reduction of vulnerability, and the ability of people to take charge of their own lives, is really the most effective course of poverty reduction. Many of us believe that human rights can help the Bank to achieve its primary and fundamental mandate, which is poverty reduction. In addition, poverty reduction achieves human rights for people.

I think that we also grapple with this political/civil versus vs. the economic and social rights - and what have been defined as "process rights" vs content rights. It's very important to not get involved in the political domestic affairs, which is what the (Bank's) articles meant. That is really politics, and that would be inappropriate for an external agency. But what what is politics? What is political? What is civil? It indeed is difficult.

We believe, though, that we are taking steps along with those who work in DIFID, UNICEF, UNDP to look at some of the key underlying areas than can help with the achievement of human rights. I've been involved in some of the work that a special group has done for the office of the High Commissioner for Human Rights on human rights and the poverty reduction strategies (PRSP) with Paul Hunt and Manfred Novak and others.

One of the first steps is better analysis. How do policies and programs impact different groups of people - particularly poor people? You can see on our web site (under poverty net) that we are attempting to develop tools and policies to help us understand poverty (and improve the) social impact analysis of policy reforms.

This is a very important first step, because the response to poverty reduction cannot just be legal, or involve the reform of laws as they exist on the books. (For example) we have been dealing with property rights and commercial rights in the past. The property rights of poor people are important civil as well as economic rights, but we've had too much bad experience in the past. You change a law, but if the underlying way things

get done at the community level, and the "invisible law" operate separately from the rule of law officially, it can really hurt people. You can attempt to have a land-titling program but if there are those who play fast and loose and have inside information to those in power, you will find that poor people who benefited under customary law suddenly do not benefit. This is why better analysis and visibility of some of these challenges become so important in realizing human rights.

We think that non-discrimination and the recognition of vulnerability are very important. And again analysis can contribute to that. We are speaking with one voice with folks who are looking at human rights in this regard and identifying indigenous peoples, people affected by resettlement and so on as important areas to understand. We actually have operational policies in that regard.

Participation, empowerment, the voice of people – these are incredibly important in realizing human rights. In fact I think (they may be) more important than the content rights because they allow people to determine how different rights get realized. They will allow a progressive realization of different rights within a context of resource constraints.

We have been doing work on strengthening the enabling environment for civil society groups, for NGOs. We've worked a lot with NGOs in this kind of area. We've even supported in Indonesia legal aid societies that you may be aware of. And the local media. We have just published a book called *'The Right To Tell: The Role Of Mass Media In Economic Development.'* This has just come out actually in the last few days. This kind of enabling environment for the media and civil societies is very important.

Here again it is always a challenge to know if a civil society organization really represents poor people or not, or whether it represents agendas of different groups. Now again that's why an open transparent society in general is so very important because there can be vested interests in certain groups as well.

Ultimately the ideal in a democratic framework is a parliament. And we have grappled with this in terms of working with NGOs within the context of the poverty reduction strategies. It is very important to work with NGOs. At the same time ultimately it's the vote - and that aspect of civil rights - which is so important. And we are working more with parliaments in that regard.

I think also of accountability and transparency - another very important hallmark of human rights. We are attempting to do work that is not just technocratic – and that was the big mistake of the Bank, to think it could operate in a technocratic way - but areas of social accountability. This means getting more disclosure and public transparency and budget systems and how money gets transferred down to local levels. Opening up to NGOs; opening this to the public; helping civil society groups and government institute citizen report cards.

This flow of information is incredibly important because it opens up the system and allows systems domestically to work, as opposed to an external agency coming in with a value judgement and saying "this is a good agency and this is not." Ideally, it needs to be coming up from a domestic area.

So basically these are the areas that we believe are important in working towards political/ civil human rights, and talking with colleagues at DFID and so on. We also have staff that work in health and education areas. They are working at the country level with UNICEF (which works directly on Convention of the Rights of the Child) to recognize that citizens have entitlements, governments have obligations and also parents have

obligations. Communities have obligations. It is this web of responsibilities and entitlements that really make a society work. I think some people in the Bank get scared because an entitlement is something the government has to do for citizenry. And yes, government does have to do some important things but it is not always the provider in all cases.

Irungu, you mentioned about poverty being the "erosion of human rights entitlements" or the "stripping away of capacity." In some respects that implies that somebody wasn't poor and then somebody stripped away their entitlements and capacity.

Now that can happen, and globalization may raise some of these issues. But one really wants to think that all people move up - that it is not a question of stripping away but a question of enabling. It's not just protecting human rights but fulfilling human rights. It's allowing standards and decency to move with the times. This is a very important aspect. There are international values that become more important.

As Nick Stern our chief economist has said, in some respects public policy embodies ethics. Public policy makes its mark upon the market. It makes choices and judgements that societies think are important. I think that's where we are moving - (to a point) where ethical public policy builds on institutional economics in trying to understand what those linkages are. This is so very important. Thank you. (applause)

Moderator:

We have another half-hour left. I think we should open it up for some questions. You can identify yourself if you want, or just pop your question.

Jenny:

I am a sophomore in the college here and in the fall I helped organize a debate right around the IMF World Bank meetings. We had a really tense debate between various economists from the IMF and World Bank and groups in DC. One of the economists from the World Bank, John Garrison, kept bringing up the fact that the World Bank is owned by the governments. It is not a public corporation, but is owned by the governments.

We can talk about these all policies as much as we want - the intentions of the staff, the intentions of the Bank - but the money for the World Bank comes from those governments and from their finance ministries which are in turn lobbied heavily by big industry business and corporations. They are the ones with the say. In a system that has one one dollar one vote, that is where the say comes from and that's where decisions are made. That seems to me like a very big, horrible conflict of interest. I don't trust Enron or any of these companies to really care about human rights as much as the Bank staff does. So I wanted to hear from the two panelists on the left what is being done to address that problem - the conflict of interest that seems to be the most important issue we just never talk about.

Moderator:

The Bank is in the pocket of industry. Comments?

Ian Johnson:

The Bank is owned by governments, just as the UN is owned by governments - by exactly the same governments bar two. You can make judgements as to whether ministries of foreign affairs are more or less powerful within the country than the treasury or the ministers of finance. At the end of the day these are government commitments. The articles of agreement of the Bank are signed by the governments, not by any particular ministry, just as they are in various UN agencies.

Obviously you can make value judgements as to whether some governments give greater store to their ministers of finance than others. I don't know about this country - whether the State Department is more powerful than the Treasury in terms of its deliberations within the Bank's board. It is true our representatives are drawn from governments. We have a board of twenty-four people who represent a hundred and odd countries. We have a board of governors that meets once a year that are from governments at the highest level. So we are a governmental organization - that's a fact. You can make a judgment as to whether governments listen to more to industry than to NGOs. I guess it varies from government to government.

Where I think there is an issue is that the more money you put in is the more say that you have. And that's something that is often contrasted with the UN where it is one government, one vote, as opposed to one dollar per government per vote. That's the basic difference.

Judith Edstrom:

But I would say on the human rights issue, that the table has turned a little bit. The European countries are the ones that are the strongest for human rights. The US sometimes yes, sometimes not, if I am going to be frank about it.

The representatives who speak up most when we try to put in elements of human rights are developing - borrowers - who believe that's an infringement of their sovereignty. So it is not industry that is bringing it up and saying: "Stay out of our affairs, stay out of our politics," it is our borrowers. You know while China may like that money, China is our largest borrower. No Bank actually wants to lose its borrowers. We need our borrowers. And we need to have a consensus vote.

Mike Jendrzeczyk:

Judith is right about some of the borrowers being a big problem on the board, but let us also remember that it's the tax-payers and the parliaments - and in the case of the US the Congress - that vote the money that the Treasury department then gives. And frankly some of the more positive changes at the Bank that address labor rights, more transparency and the environment came about because the US and other G-7 countries contributing to IDA funds and in some of the bilateral appropriations by Congress insisted that those changes be made. [The International Development Association (IDA) is an arm of the World Bank that lends money to the poorest countries at minimal rates of interest.]

So I think that as tax-payers, you and I in the end have as much clout, if not more, than these ministers because the money comes from us. And it's true not only in the case of the US Congress but other parliaments, who have insisted that there be more transparency and more accountability not just on the part of foreign governments but on the part of the Bank itself. And some of those changes have come precisely because they have insisted that be the case when they pony up and hand over the money.

Moderator:

Jenny, are you convinced?

Jenny

I just want to say that while it may be true in theory that we as taxpayers have a lot of say in the US Treasury departments and our own governments, it seems that public pressure is not strong enough to counter the influence of the big industry, the industry lobby groups. We are not as loud as they are, and we are not throwing as much money at it as they are. They exert the stronger pressure.

Moderator:

Well you need to become a bit louder then. (laughter) Let's get onto another question.

Alexis:

Yes good afternoon. My name is Alexis Zepeda from the Center of Latin American Studies here at Georgetown. Just a quick question. If the World Bank representatives could talk in more detail about to what extent local NGOs have been involved specifically in the evaluation and analysis after projects are done. It seems like that would be the most important part to involve them in.

Ian Johnson:

We have an independent evaluation group called the Operations Evaluation Department which reports directly to our board. I have been involved in far more evaluations than I would have liked to. I get evaluated more than anybody I think in the Bank! In every case I can think of, the OED has moved very much toward regional consultation. I'm thinking about the forest strategy, that was reviewed just recently; on global public goods; on projects. In all cases that I can think of, there was fairly extensive consultation at the regional level. I think also, if I am not mistaken, there was also quite a lot of electronic consultation. I would say it has only happened over the last 3-5 years, but it is growing very, very fast.

The indigenous peoples' policy is something the OED have looked at. They had thirty-two regional consultations. Increasingly we are doing work with them as well on consultations because it is becoming a fairly heavy tax in terms of time and effort. But yes, I would say, that is a growing part of the OED's work.

Emil:

I'm at the School of Foreign Service and I'm a freshman. This has to do with the general policy of the World Bank. I've read that the World Bank more supports a policy of productivity as opposed to distribution. Critics say they should focus on the policy of distribution in order to make the benefits of the World Bank policies more available to more people. So I was wondering why the World Bank supports a policy of productivity. And to the NGO people - do you think they should focus on a policy of distribution?

Irungu Houghton:

It's easy to be either one or the other. My sense is that the World Bank and other institutions have been trying to grapple with how do you increase growth - and that's the productivity angle - but at the same time look at distribution internally. So that there is a struggle to get those two things working together.

The concept I like is shared growth or equitable growth. In many cases we've been working very much on Malawi in the context of the famine. And the analysis that came out was that certain package of policies produced a situation in which famine was not responded to in as diligent a manner as it could have been.

One thousand people died over a period of 5-6 months and when we did the analysis (which comes back to this question of the monitoring and evaluation of projects) we essentially asserted that there were four major reasons why the state had been unable to respond quickly enough to the famine:

1. Its own mismanagement of resources, essentially corruption.
2. Over a period of 5-6 years the Malawi government had lifted all the price controls on grain. So that when the shortage happened, hoarders were able to wait until the prices were raised 400 – 500% then sell it to the market, ensuring the poor people starved to death. They made a killing.
3. Discouragement of "Starter Packs" (subsidies for poor producers to be able to produce).
4. The privatization of the grain marketing board (Admark) had essentially produced a situation where the institution had been unable to guarantee some basement prices for the grain that was being produced by poor people.

This had been presented to the World Bank and IMF. We said: "Isn't this axiomatic policy failure?" It was the strongest description we could find. We were told that no, markets are imperfect and until the markets became perfect we would see this kind of situation. That the policy advice was correct and the government essentially failed. That it was an institutional, rather than a policy, failure. Now, that's a graphic response to you. It's a live issue that has yet to be met with a satisfactory response from either the Fund or the Bank. And it is an issue about distribution.

Steve Klees (International Education Policy Program at the University of Maryland):

There has been a lot of rhetorical change and I know a lot of people in the Bank and everyone is good intentioned. But, what has really changed in the last 3 or 4 decades - and I think that is what Irungu started with – is that poverty and inequality globally have not improved. Some would say they have worsened.

The idea of indirect remedies – longer-term remedies like expanding health and education – have not been successful in practice. We've been promising universal primary education for four decades. We had the 'Education For All' pact in the 1980. In 1990 Jim Wolfensohn went to Dakar and said that if money was the problem, every country would have universal education. There has been very little money forthcoming. The new Bank initiative called "fast track money" provides very little, compared to the problem that exists.

You look at poverty reduction strategies. I know from people who work with civil society organizations say that there very little participation. When there was participation, it didn't change much. And what we hear out of the Bank now is another slogan from the 1980's actually – "pro growth is pro poor." This implies that the policies that will get us economic growth, perhaps will get us sustainable development, perhaps decent jobs. All of these are a perhaps!

But the way to do that is to have the same type of growth policies we had in the 1980's, which are exactly what those poverty reduction strategies are producing. They are producing the same sorts of structural adjustment programs that were produced then under the guise of civil society and property reduction.

And now we've got a privatization strategy that is being produced out of the WTO (World Trade Organization) and GATT (the General Agreement on Trade and Tariffs). The executive directors, the so-called "independent" executive directors of the World Bank, just put together a private sector development strategy that the NGO community stopped for four months! And then it went through. The reason is because the executive directors are basically Paul O'Neill and the United States.

So do you see that kind of world continuing? And why should we think this kind of rhetorical change is going to change anything, when the fundamentals haven't?

Ian Johnson:

In terms of poverty and inequality worldwide you are absolutely right. The world has become more unequal, significantly more unequal I would say.

One example is the disgraceful OECD agricultural subsidies (applied by the US, Europeans and Japanese) which amount to more than a billion dollars a day - bigger than the GDP of sub-Saharan Africa. That is an issue I wish we could take on. We do take it on as an advocacy issue, but we can't take it on as an operational issue.

But I do think you're right. We are moving to a more unequal world. This country is moving toward a more unequal society as well. I see it in my own country. So, yes, there are some big issues that are global in terms of inequality. The amount of aid is really a drop in the ocean.

On the fast track in education, my understanding, (and I am not an educational expert) is that we are able to finance more programs even from the Bank. What we haven't been very successful at is raising money from others also - something that hasn't gone as well. By the way the same is true on HIV/AIDS. The global AIDS fund is disgracefully under-funded. It now has commitments out there far in excess of the money it has in the bank. That is a very big issue.

On the Poverty Reduction Strategy Papers (PRSP), they've only been around for a short time. My own sense is that they have encouraged participation, certainly on our side. Judith's group has been looking at this very carefully. They vary enormously. I can think of some places where there have been extraordinary levels cases of participation – in the Philippines for example – where there has been much more engagement of civil society. I do think it varies. It's something that we have got to promote.

The other thing about the PRSPs is the intention that they will be owned by the governments and the countries. Our job - along with every donor – is to ensure that the PRSPs are country-owned and to support them.

And finally on pro-growth. I don't apologize personally for arguing for pro-growth. I think the *quality of growth* is the question. I can't see Africa getting out of poverty if the economy does not grow 3.3% per capita/year. And that's what the Millennium Development Goals have laid down. In terms of looking at the income dimension of poverty they're making the case you have to have economic growth. You can't escape that. It's the type of growth that is important. As I said earlier, I think poverty is not just about growth. Growth is one element. And there are at least two other elements that need to be taken into account.

Mike Jendrzeczyk:

I very much agree that in this post 9-11 world, this growing inequality has to be addressed. I am not arguing for simplistic explanation for the causes of terrorism, but there is no question that this growing inequality, both in developed and developing countries is a huge problem.

Just briefly on participation. I also think it's important for the Bank to recognize that yes there is consultation sometimes, but in a very pro forma way. That's different from seeing NGOs in civil societies as partners in the development process, and not just the boring governments.

Frankly in the part of the world that I work in, the Bank has been best at this in post-conflict situations. We've had various meetings with the Bank staff in Kabul, doing work in Afghanistan, where we have people. The Bank staff are keenly aware that they must (respect) the role of Afghan and international NGOs in civil society if they are going to totally rebuild that devastated country after years of drought and warfare.

Similarly in East Timor. After the violence there, and the rampage of Indonesian troops and militia in 1999, the Bank staff in Dili and elsewhere got high marks for working with people very much at the village level and working with NGOs as partners in the process of rebuilding the country.

I just wish the Bank could be more consistent and learning lessons from some of these post-conflict situations, where it's done in many cases a very good job, and apply those elsewhere.

Ian Johnson:

I wanted to follow up. I subscribe to the profound issue that Mike has raised about the need for new institutions. I think we're in danger of running down, winding down the age of consultation and participation. I don't say that in a trivial way. What I'm beginning to find in the business I'm in the Bank is that we don't have the right model for participation and consultation. At the end of the day there seems to be as much bad faith on either side as good faith. I think what we have to strike out for is a new age of new institution that are capable of decision-making. The big problem we have is where the decisions lie.

That's where we have run aground. I can think of a number of occasions where it's not been through lack of due diligence or consultation and participation. Maybe we have done too much! Still, we haven't been able to use that mechanism to come to closure. At the end of the day decisions are made outside of that. I think what we've got to develop a new age of institutions.

On conflict, I agree very much. But I do think that the institutional framework (in) conflict situations and non-conflict (situations) are often very different. It's therefore more difficult to do what you said.

Steve Klees:

Just one comment (and I'd rather be on the panel than just be permitted one comment!) No one says growth is not important - as you said the question is how. Is it not possible that the last two decades of policies by the World Bank by IMF have been the problem? That these structural adjustment policies are the reason we have such an unequal world now, even worse that it was in 1980?

I talked to a Bank economist recently. When I said that, he said: "Imagine how much worse it would have been if we didn't have those policies." That kind of thinking is the problem with the Bank.

Ian Johnson:

I don't agree. I think it is a bit much to lay global inequality on the back of the World Bank or the IMF. And so no I don't agree.

Irungu Houghton:

(But) is there another institution comparable to the World Bank? In its impact, its outreach, its capacity to change budgetary priorities, its capacity to change institutional behavior in the world? Or is there just the World Bank?

Alex Paige:

I am an attorney with the Indian Law Resource Center, an NGO based here in Washington that litigates and advocates on behalf of indigenous people primarily in the Americas. We have been involved with work on the Bank's safeguard policy for indigenous peoples that is currently in revision.

I would like to first just commend you, Mr. Johnson, on your statement about finding a new paradigm for new consultations. I think this has been an issue of great concern to indigenous peoples. For some examples of problems the Bank has encountered in its efforts to conduct consultations, you can see records of some of the failed consultations with the indigenous peoples that are posted on the Bank Information Center website www.bicusa.org.

My question is geared more generally toward the safeguard policies. Our moderator alluded earlier to a growing academic consensus about the Bank's obligations under international human rights law. It's a view that I share - that the Bank is in fact obligated to uphold human rights.

I would like to ask about the obligations of borrowers under human rights laws. As you know, Mr. Johnson and Ms. Edstrom, the Bank in its environmental assessment policy has specifically prohibited Bank lending for projects that would contravene borrowers' requirements and obligations under international environmental law. So my question is - as a matter of general policy is the Bank willing to fund projects that

contravene borrowers' obligations under other types of international law - international human rights law for example? And if not, would it not be appropriate to include similar prohibition in the other safeguard policies the Bank uses?

Moderator:

I think that question shows the degree of detail the discussion is getting into. And I really hope, as we said at the outset, that this dialogue with the Bank could be continued in some form or shape. Ian or Judith would you like to reply to that?

Ian Johnson:

My understanding from our legal colleagues is that indeed we as a matter of general policy should not finance anything that would violate a borrower's legal obligation under an international treaty. Similarly a borrower should not borrow from us to do that as well, so that works both ways. That is my understanding.

I think that where we've run into some difficulties sometimes is where you have a treaty that is in force, but not been ratified by the particular country you are dealing with. There have been some difficulties that we have tried to tease out. In a way (this) is mitigative. In other words we're saying we shouldn't do anything that violates (a law). Where I think we've often run into controversy is we haven't necessarily positively reinforced (human rights law). I think that is a legitimate criticism – that we sometimes look at the mitigative (in other words we don't do any harm) but don't do the good we might do. That I think is legitimate criticism.

Mike Jendzejczyk:

I also have to say - I can't let this go by - that when we argued for the Bank to withhold a loan to Russia for coal infrastructure we made precisely this same argument: that Russia was violating international human right treaties in its war in Chechnya. We argued that Russia was desperate for money at that point; that it needed to fund the war, and there was no way the Bank could prevent the money being given from being used to fund the war. And we made that argument with the legal department and others at the Bank, and with the president - and we failed. We were told that's not right.

So I agree with the principle you just enunciated Ian, but in implementation again it is difficult, no question. It calls for delicate political judgments. In this case, I don't think the donors were on board. I frankly think that was another key factor. When the donors do weigh in, and they make it clear that they share that interpretation, and want to see it applied then there is a chance. Otherwise, I think we are fighting a real uphill battle.

Judith Edstrom:

Excuse me. That is where we are. The World Bank is not an institution that is separate from the power structure in the world. What can the World Bank do? We are moving more to call our Part 1 (industrialized countries) to the table. Our president is willing to do that. They are important players in how the world works. And I do agree that it is sometimes (about) geopolitics.

Strictly speaking, our legal department says we are not signatories to the international treaties. We help

governments fulfill their human rights. The difficulty is (in deciding) what is a human rights violation. I think perhaps it might be easier to determine whether we are supporting environmental treaties, which actually specify certain levels of environmental degradation than (human rights treaties).

Moderator (to Ms. Paige):

There's a lot of interest of the redrafting of this Bank policy on indigenous people. I wonder if your organization, which is clearly working on it, feels whether it is sufficiently engaged with the Bank in this process? Do you have an input into it?

Alex Paige:

I think the Bank made some real strides and at a recent meeting convened by Mr. Johnson, the Bank invited indigenous leaders from each of the Bank regions to sit down with Bank staff and some of the members of the legal team - although unfortunately, not the general counsel - and discuss some of the particular problems that indigenous leaders have with the safeguard policy.

The Bank has also responded to some concerns about timing. The operations evaluation department is currently reviewing the implementation of the current indigenous people safeguard policy. As originally planned, that review would not be completed until after the current policy was revised, and submitted to the board of directors for approval. The Bank has agreed to change that timing somewhat to address the problem.

But I think that the concern of indigenous peoples remains that their demands not only be heard and recorded, but that they also have some bearing on the final outcome of the safeguard policy. And that's what remains to be seen.

I would just submit that these questions about the international human rights obligations of the borrowers may be difficult, but many legal questions are difficult and the questions of environmental obligations are certainly not simple themselves. I think that the indigenous community, the advocacy community, particularly those of us who are lawyers, are very eager to continue to work closely with Bank staff, to try to flush out some of the problems that you have.

We're certainly not arguing that the Bank is a signatory to any treaty, but as you know there are norms of customary international laws that are binding on states that may or may not be laid out in any treaty. In that regard I would like to again thank Mr. Johnson for agreeing to hold a very focused technical legal meeting about international indigenous rights. I hope that both that meeting, and some of the ongoing activities of the task force, can involve NGO lawyers as well as lawyers for the Bank and some of the stakeholder groups.

Moderator:

Ian, you're getting a lot of compliments. I'm not sure that is nor what he was expecting when he came to the discussion. (laughter).

Ian Johnson:

I think I might leave while I'm on a high. (laughter). I want to mention two things that are complexities for us.

One is that we do a lot of consultation. On the indigenous peoples policy we 32 consultations around the world. We consulted with 1,000 people or more, most drawn from indigenous peoples, and yet clearly we didn't consult with everybody. What's the right balance between total inclusion and effectiveness? I don't say we got it right or wrong and I don't say the consultations were right or wrong. But it is a fact that we put as big an effort in this (as we could). I busted my budget on this one, I can assure you. And yet we didn't get it right obviously, because there were some people, as you say, who came to the meeting and didn't feel they were part of the story. So, that's one of the big challenges we face on this.

The second big challenge goes back again to institutions. I think it is unfair to say these consultations haven't shaped the policy. They've shaped it enormously. Where they've drawn the line, though, is on sovereign rights. We are part of an international governmental process, and that is just a very hard hurdle for us to jump.

That's why I believe that we got to start thinking about other institutions, where stakeholders can - together with governments, non governmental organizations and others - help craft decisions and not just have consultations.

This is one case where, frankly, where I personally I have a lot of empathy for the indigenous peoples. But I can't sell it! I can't sell sovereign rights to an international governmental process. It just won't wash. I know on this one that we'll end up having to agree to disagree about it. But personally I have a great deal of empathy for the indigenous peoples on this one.

That's a good example in my mind, why we need to think of new institutions that can craft public policy that holds by all stakeholders. We're not there yet.

Alex Paige:

If I could make one quick point with respect to the consultations. I just want to make sure that everyone understands that it is in my interest and the people that I work with that these consultations be meaningful. And I personally met with Mr. Johnson's policy team about the planned consultations last summer and urged them not to conduct these consultations in the very compressed time frame that they were planning, because it was my view that they would not succeed were they not to have sufficient time allotted to them. The policy team nonetheless went ahead. I think that anyone who looks at the eyewitness accounts of the consultations will see that though many dollars were spent and much time was spent, these were not meaningful consultations for the people who participated.

But, the Bank has another chance. It has agreed to make some revisions to the proposed revised policy and issue a second revision. This may be the first time this has happened with the safeguard policy. And I urge Mr. Johnson and his policy team to think carefully how best to consult with indigenous people following the issuance of that. Thank you.

Moderator:

There you go Ian, you have a last chance! I hope you'll follow up on that. We've come to the end of our time. But we have two questioners who have been standing very patiently. Could you keep the questions short and keep the answers short. Then we need to wrap up, because I know everyone else has to be at other engagements.

Gabriel:

Hello my name is Gabriel I am a freshman in the School of Foreign Service. My question is related to the situation that was brought up by the speaker from ActionAid about the constitution in Kenya. What is the view of the World Bank about why constitutions like Kenya prioritize the payment of foreign debt and loans before citizens rights?

Ian Johnson:

Each country has to decide what its priorities are. Kenya has clearly decided.

Moderator:

Irungu, do you want to comment on that?

Irungu Houghton:

I think the question was directed at the Bank, in terms of whether that is an enabling legal environment for citizens. That is the broad question. (Kenya) is a specific country and maybe it's unfair for somebody who may not have seen the constitution.

But I am slightly dismayed that the format within the constitution is not unique (to Kenya). There are several southern countries that actually have that format written into the constitution. That's just an indication of the degree of power to which these institutions have over our governments and that's just the reality. So I think the question is whether the World Bank serious about trying to reduce the amount of conditionality on governments, in order that they are able to determine the priorities on sensitive that have been raised, like the speed and sequencing of privatization, structural adjustment.

Judith Edstrom:

I would just say one thing. In the case of Kenya, the World Bank suspended lending to Kenya for some time after consultations in the country (with) civil society groups. These groups convinced us that the aid wasn't getting to people anyhow. And we did suspend aid.

Irungu Houghton:

The resumption (of aid to Kenya) came at a point when the World Bank installed, with the blessing of the President, a team of about 6 to 8 senior technocrats who were on the World Bank payroll. They came in and

took the position of the permanent secretary of finance, the finance secretary, the permanent secretary for agriculture, the head of the privatization commission and several other positions. The aid was actually resumed in that context - not because of organizations like ActionAid.

I was part of the group that said don't bring aid in, and I and others took some responsibility for that. They did not come back to us and say: "Is this a point at which we should resume aid?" No, it came with a package.

Moderator:

Judith and Irungu, there is something to follow up. Be careful, Judith!

Ian Johnson:

I would suggest you read the newspapers tomorrow, because there is one country that has slightly different priorities that has taken a decision with respect to the World Bank. Don't cry for me. (laughter) (*Note: Argentina announced that it was delaying the repayment of its loans to multilateral institutions the following day*).

Moderator: Thanks for that question. Let's have the last question.

Steve Herz (Friends of the Earth, Washington DC)

Ian Johnson has invited us all to think about concrete ways that mainstreaming human right considerations could lead to differences in the World Bank's operations. I would like to propose two things and have the folks from the World Bank comment - first on the merits of the proposal and second on the political environment both within the Bank and in the board of executive directors that might suggest if those proposals could possibly be taken on board.

The first proposal was pretty much anticipated by Alex's question, which was about the need to "upward harmonize" World Bank safeguard policies with the relative international human rights norms in cases where there is space between the two. I think that folks who have worked on the indigenous peoples' policy review have pointed out gaps between what international law will require and what the safeguard policies mandate. So that would be the first one.

The second (idea) I'd like to propose is that the Bank needs to do a systematic ex-anti analysis of the potential human rights impacts of its project and policy lending. Ms. Edstrom pointed out the importance of better impact analysis. I think that it would go a long way towards advancing the human rights agenda at the Bank if the Bank were to look at the full range of human rights issues in advance: go through them, look at the potential impacts the loan would have on all those issues, and then to make those assessments public. (This would allow) a meaningful debate in the country both about whether the impacts are worth the potential benefits of the loans, how to mitigate the impacts and finally, how to manage the trade-offs between impacts if those arise.

Mike Jendrzejczyk:

Before Ian responds, Human Rights Watch made this proposal to the Bank about 8 years ago and then again 7 years ago and 6 years ago. About 5 years we gave up.

We agree with you (about the importance of that) kind of analytical data. The Bank now does diagnostic studies of corruption, for example, which it never did before. I don't know why it couldn't take on the kind of analysis you mentioned. That could point out very concretely these linkages between international human rights obligations and sustainable development.

Ian Johnson:

On the question of safeguards, I see no reason why we shouldn't look at this writ large. We are taking a broader look at our safeguards anyway. I don't think the way to do is to go through each one as they are currently written, but rather look toward the future.

Our legal colleagues certainly have been looking at the links between safeguard policies and broader international law. And as you say, some people have pointed out the gaps. My understanding, and I am not a lawyer thankfully, is that there may be differences of view on that. But, nevertheless I think it is a legitimate area.

On the second, the right locus for something like this would be our independent operations evaluations department. Perhaps we could look at it in the context of the recasting of our operational policy on adjustment lending (#8.60 for those that follow the Bank policies). That may be the place where it could be looked at.

I guess the question would be a) do we have the data; and b) can you look at the causality between human rights changes and policy lending. Those are methodological questions which I am not capable of answering. But that might be something that could be looked at.

Would the Executive Board be interested? I think certainly in the first. I don't see that as being terribly controversial in terms of the board. And in the second, I don't know. I just don't know.

Mike Jendrzeczyk:

What I would suggest, Ian, is to start with something new. For example there is a new UN Convention on the Rights of Migrants that's about to come into force. I think it's just about one country short of ratification. There are economic and social human rights problems in both sending and receiving countries, where both migrant labor is a huge issue. So you have a new emerging standard, and a convention that countries around the world are ratifying. (This) might be a place to start, rather than a more difficult area where you are going to have more sensitivities.

Ian Johnson:

That I think is doable. One of the things that we're doing coming out of Johannesburg is looking at what actions the Bank should be taking in the post Jo'burg Action Plan and in the context of our World Development Report on sustainable development. One of the very big issues in the World Development Report is clearly the future of "people movement." I don't call it migration, because I think it's going to be more complex than that. That's certainly something that would be well worth following up on.

Judith Edstrom:

On the human rights assessments, broadly speaking, I've discussed this with people in the human rights community and the Office of the High Commissioner for Human Rights. They are not necessarily in favor of the Bank undertaking these assessments. (The Bank) should perhaps read them, and be cognisant of them, but it should focus on some of the economic and public policy analysis. Others are probably better prepared to do a human rights assessment, specifically stated.

Again, in some of the human rights treaties there is certain exhortation. It is sometimes hard to determine what the implication is. But we are attempting to (understand it) by looking at vulnerable groups and how policies impact people. With a view not just to mitigating bad effects, but strengthening the positive effects – the distributive effects and increased productivity – and productivity is a good thing because it means more output per input.

The challenge is sometimes to see the causality and the links, because obviously it is the multiplicity of policies, the external environment. It's a whole host of factors. Sometimes its hard to isolate this. So that does become something of a challenge, but we are cognisant of that.

Moderator:

We have another questioner that just popped up. Since the theme is inclusion I think we should take the question.

Bruce Jenkins (Bank Information Center, Washington DC)

I just wanted to follow up quickly with an open question to one of Ian's points. It's mostly about process and how the Bank moves forward. Ian was wondering what the Executive Board might or might not do. And I was just wondering - not to try to put Ian or Judith on the spot or to try and get them in trouble with their board members – if they thought that openness and transparency at the Board decision-making level might actually be a helpful factor in moving the human rights discussion and agenda forward at the World Bank.

As you know obviously, and many people here know, the meetings of the board of directors are not open to the public. No minutes are available from those discussions. We do know that at one recent meeting on the Chad /Cameroon project, about which the inspection panel did raise the issue of the human rights, certain directors did make strong objections to the inspection panel getting involved in that area.

With a little more sunshine shining at the board level, would there perhaps be a little more incentive for certain governments to take some more accountable positions to their own citizenry about where they stand on human rights? Especially as some of the governments are actually signatories to some of the international conventions that are in discussion here.

Ian Johnson:

I can't give a corporate position, because this concerns our board of directors, not management. My own

sense, going forward, is that a greater level of transparency would be good. I think you would see that some things would still end up being very confidential.

Moderator:

We've now run out of time. I'd like to thank everyone for participating in a very lively debate. I hope it has been useful to our panelists and informative to our audience. You'll be able to find a transcript of the discussion on the website of the Institute for the Study of International Migration, which as you know has sponsored this discussion.

Thank you. (Applause).

**Huong Qi was arrested 3 June 2000 and tried August 2001. A verdict is still awaited.*