

SAILING BACK TO THE FUTURE: HISTORY AND POLICY MAKING AT THE WORLD BANK

The Bank's Evolving Approach to Governance Issues
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Articles of Agreement

- The World Bank's 'constitution'; provides the basic legal framework for its work
- EDs are the ultimate interpreters of the Articles, but the GC has a key role to play
- Key provisions re: GAC include:
 - Purposes (Mandate)
 - Political Prohibition

- Opinions of the GC interpreting the Articles have been essential to providing legal grounding for the Bank's evolution on GAC issues:
 - Shihata's 1990 Legal Memorandum on Governance*
 - Shihata's 1995 Legal Opinion on Political Prohibition
 - 2002 and 2004 Legal Notes on AML/CFT
 - 2009 Guidance Note on Multi-stakeholder Engagement
 - 2012 Legal Note on Engagement in the Criminal Justice Sector*

1990 Shihata Legal Memorandum

- Seminal thinking on the Bank's work on GAC issues
- A ***critical historical document*** that set the stage for subsequent legal thinking on GAC issues
- But it relied itself on examining:
 - Legislative Intent
 - Past practice
- Particularly important intellectual breakthroughs:
 - Placing many GAC issues within the Bank's purposes/mandate
 - Re-framing the issue of what is 'political' vs 'economic'

2012 CJ Legal Note

- Builds on Shihata's seminal thinking, but modifies his tests based on lessons learned, evolving understanding of development rationale for CJ work
- Archives were critical in documenting the Bank's actual experience in CJ sector and in evolving legal position
- Traces the evolution of thinking in the area of governance over time—a close study of the historical record provided our path forward