

At issue: Human rights (the World Bank way)

Most of the world's governments have ratified at least one human rights treaty or convention. Kirk Herbertson, Kim Thompson and Robert Goodland of the World Resources Institute ask why the World Bank Group — which is owned by these same governments — is hesitant to discuss human rights openly.

The links between human rights and development are well understood. Studies have shown that many countries that demonstrate respect for human rights experience a higher rate of economic development. Yet, human rights standards are not only important for countries, but also for the development institutions that invest in them. In particular, these standards can help guide development institutions towards investments that focus on the needs of the poor and the vulnerable. Involving the poor in development decision-making can direct attention to the structural causes of poverty, including discrimination, exclusion, and lack of accountability. Human rights standards are also increasingly employed as a tool for managing risks and measuring the effectiveness of development.

Conversely, violations of human rights — such as the repression of dissent, loss of community access to food and water, dangerous labour conditions, or discrimination against poor communities — can prevent an investment from generating net development benefits.

The World Bank and the International Finance Corporation (IFC) — the private sector lending arm of the World Bank Group — have wrestled with human rights issues on many occasions. In January 2009, for example, the World Bank suspended a loan to Albania for coastal zone management, after an internal investigation found that the project failed to comply with the Bank's involuntary resettlement policy, demolishing houses and leaving several families homeless. In June 2009, the IFC cancelled its loans to the Bertin cattle ranching project in the Brazilian Amazon two weeks after Greenpeace published a report entitled *Slaughtering the Amazon*, which documented the company's destruction of indigenous peoples' land and the use of slavery. In late 2009, an internal audit criticised the IFC's investments in palm oil projects in Indonesia that affected poor and indigenous communities' access to land. World Bank Group president Robert Zoellick responded by suspending further World Bank Group palm oil investments worldwide until a sector strategy is in place. In all of these cases, the World Bank Group could have improved the development outcomes of the projects through a more systematic identification and management of human rights risks.

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Are human rights missing?

The World Bank Group has in place a number of environmental and social policies to help ensure that its investments 'do no harm' to people and the environment. In the 1980s, in response to public criticism of its involvement in controversial projects — such as Polonoroeste's BR-364 Amazon highway programme in Brazil that uprooted indigenous communities, and the Narmada Dam in India that displaced 90,000 people — the Bank began to develop safeguard policies that require clients to consider the environmental and social implications of projects. These policies now require clients to conduct an environmental assessment and consider a project's potential impacts on the surrounding communities before the World Bank approves financing.

The IFC followed with the adoption of its own policies. In 2006, the IFC established a set of 'performance standards' to guide its corporate clients in environmental and social risk management. These standards link explicitly to international labour conventions, but do not otherwise reference international human rights law. Through these standards, the IFC's influence stretches far beyond its own portfolio, with more than 118 financial institutions and numerous companies having adopted them.

In May 2010, the IFC submitted a first draft of its revised performance standards to the board of directors for consideration. In an introduction to the draft, the IFC claimed that "businesses, civil society, and other stakeholders understand that social and environmental considerations in business contexts are broadly equivalent to human rights considerations" (p. 24). As a result, IFC considers its environmental and social risk management approach to adequately manage human rights risks. Bank staff often claim the same about their safeguard policies.

This is in contrast to the approach of the European Bank for Reconstruction and Development (EBRD, which is also owned by many of the same governments as the World Bank Group). In its 2008 environmental and social policy, the EBRD committed not to "knowingly finance projects that would contravene obligations under international treaties and agreements related to environmental protection, human rights and sustainable development as identified through project appraisal." The World Bank has a similar policy for environmental obligations, but none for human rights (operational policy 4.01, para. 3).

Is the World Bank Group's environmental and social risk management approach the same as human rights risk management? Certainly there is some overlap. For example, both World Bank and IFC policies seek to ensure that their investments do not harm local communities by mitigating pollution, health, and safety risks. But there

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are also many unique features of human rights risk management, which are not covered systematically in World Bank Group policies. A few examples include:

- Due diligence to ensure that a project does not contravene a government's obligations under international and national human rights law;
- Assessment of affected communities' ability to seek remedies for any harm suffered through an independent conflict resolution mechanism;
- Disclosure to local communities that a project has been financed by the World Bank Group, and that they have access to the World Bank Group's grievance mechanisms;
- Recognition of the right to self-determination of indigenous peoples, including through the UN principle of free, prior and informed consent for activities that affect them;
- Clear exclusion from investment of inherently risky activities, such as large-scale evictions.

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Understandably, when World Bank Group staff members are not aware of human rights standards, they are unlikely to raise these issues with clients. A 2009 internal World Bank Group survey, for example, found that “overall, staff view human rights positively and think that they often deal with human rights-related topics in their work, but have little knowledge about formal and institutional human rights frameworks and their role in the development process.”

Barriers to rights integration

Even as an economic development institution, there are benefits to identifying and managing human rights risks. Nevertheless, human rights integration remains weak across the World Bank Group.

Unresolved legal obligations are the principal barrier. Under international law, the World Bank Group itself has not directly assumed any human rights obligations. When member governments created the World Bank in July 1945, they limited its mandate to ‘economic’ activities in order to safeguard the sovereignty of countries. At the time, member governments did not foresee that human rights, recognised one month earlier in the 1945 founding charter of the United Nations, would affect the Bank’s economic development mandate. Three years later, in 1948, governments adopted the Universal Declaration on Human Rights but have never revisited the World Bank’s Articles of Agreement to reflect the evolution of international human rights norms.

For many years, the World Bank Group considered human rights to be ‘political’ activities outside its mandate, but this has changed slightly. Currently, the World Bank Group’s official position is that it “may play a facilitative role in helping its members realise their human rights obligations.” This position has not led to a broader acceptance of human rights risk management across the World Bank Group.

While the World Bank Group’s legal position on human rights has slowly shifted, the approach of the executive board (composed of finance ministry representatives) has remained the same. The board has the responsibility of approving all policy reforms and investment decisions. In the past, some countries have opposed an explicit World Bank Group human rights policy, concerned that it would open the door to rankings, assessments, and censure of their human rights records. Even governments that have supported human rights in other forums have been hesitant to discuss human rights at the World Bank Group. This may be due to a lack of communication between governments’ finance ministries and their environmentally and socially-focused ministries.

The creation of the Nordic Trust Fund illustrates the sensitivity of human rights issues at the World Bank Group. The fund, originally proposed in 2006 as the Human Rights and Justice Trust Fund, was renamed in order to obtain board approval. After three years of delay, the \$20 million fund began operating in 2009 with the purpose of increasing staff’s knowledge of the links between human rights and development through workshops and pilot programmes. While the fund plays an important role in educating World Bank Group staff about human rights issues, it is not permitted to suggest improvements in World Bank Group policies.

Opportunity to update the policies

Despite these challenges, there may be reason for optimism in the next few years. The World Bank Group is undertaking the largest set of reforms in its history. The board of directors is readjusting the balance of power of member governments to give greater voice to China, Brazil, India,

and other emerging economies. These reforms could create an opportunity for governments to advance human rights dialogue without risk of World Bank Group interference in their internal affairs.

One starting point for dialogue could be human rights risk management for the World Bank Group’s private sector investments. In June 2008, the UN Human Rights Council unanimously affirmed the UN Framework on Business and Human Rights, which was prepared by John Ruggie, the UN Secretary General’s Special Representative for Business and Human Rights. The framework identifies three pillars of a corporate human rights risk management system, including a state duty to protect, corporate responsibility to respect, and access to remedies. Many governments on the World Bank Group’s board of directors have already endorsed the framework.

During the next few years, board members will have specific opportunities to integrate human rights risk management into policy reforms. The IFC is currently updating its sustainability framework, including the performance standards. Human rights have become a prominent issue in these discussions, and IFC has publicly endorsed the UN Framework on Business and Human Rights. Similarly, the World Bank is expanding its Forest Carbon Partnership Facility, which helps finance countries’ efforts to reduce emissions by avoiding deforestation and forest degradation (called REDD initiatives). The REDD initiatives have clear human rights implications, as they could potentially affect communities’ access to forest lands. The Facility provides an opportunity to integrate indigenous peoples’ rights and the UN Declaration on the Rights of Indigenous Peoples into the World Bank’s growing climate change portfolio. In 2010, the World Bank Group is also updating its energy strategy, which will guide its investments in the energy sector and serve as a model for countries that develop their own energy policies. This strategy review provides an opportunity for the World Bank Group to expand access to energy in a way that contributes to meeting the basic rights of the most vulnerable, avoids discrimination in energy provision, and ensures that clean energy development does not harm the rights of local communities.

Conclusion

The financial, food, water, and climate change crises have magnified the World Bank Group’s influence on development. At the same time, the shifting balance of nations is leading to changes in the World Bank Group’s governance, generating new priorities. These changes need not be inconsistent with a robust human rights framework. In fact, as this briefing suggests, a stronger approach to human rights risk management can strengthen development outcomes and enhance the World Bank Group’s ability to respond to global crises, in a way that promotes rights and empowers the poor. We encourage World Bank Group leadership to engage in more open dialogue on this important issue.

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This briefing is based on a World Resources Institute report (2010), *A Roadmap for Integrating Human Rights into the World Bank Group*, <http://www.wri.org/publication/roadmap-for-integrating-human-rights-into-world-bank-group>. References are included in the full report.

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