Lending Credibility:

New Mandates and Partnerships for the World Bank

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The Role of the World Bank in Strengthening Governance, Civil Society, and Human Rights

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I. Introduction

This paper addresses the role of the World Bank in improving governance, strengthening civil society, and protecting human rights. Historically, the Bank's perspective on these issues has reflected a narrow economic view of development that largely neglects social and political factors. This view of development is deeply entrenched in the Bank, reflecting the collective interests of the member governments as memorialized in the Bank's Articles of Agreement, which prohibit the consideration of noneconomic issues in carrying out Bank activities. The Bank's definition of what is or is not an "economic" factor is evolving in welcome directions, but still lacks clarity and systematic application. There is also no consensus among the Board of Executive Directors to address governance, civil society and human rights issues proactively, nor do many borrowing governments see these issues as priorities for economic development.

The Bank's resulting reluctance to embrace noneconomic factors of development puts Bank management in a particularly difficult position: to maintain its historically narrow view of development the Bank must ignore the mounting evidence that successful development activities require greater attention to governance, civil society and human rights. Even when Bank management addresses related concerns, such as improving public agencies, reforming policies, and strengthening NGOs, it views them only as instrumentalities for achieving specific project goals. The Bank has failed to embrace improvements in governance, a stronger civil society or human rights protection as goals in themselves and a necessary part of its broader development mission. In short, the Bank has failed to develop an overarching strategy that reflects the linkage between these noneconomic factors and sustainable development.

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The Bank's perspective on governance, civil society and human rights is necessarily evolving over time. Despite a culture that remains predominantly and narrowly focused on "economic" factors, a growing number of people in the Bank now recognize the conceptual linkage between sustainable development and concerns such as governance, civil society and human rights. This linkage builds pressure inside and outside the Bank to take affirmative steps to further these goals. In one particularly promising development, some in the Bank have begun to describe the Bank's role regarding these issues in terms of investing in social capital (see Box 24).

The transition between the Bank's historical focus on economic factors and the necessity for a broader view of noneconomic factors recurs in each

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BOX 24: SOCIAL CAPITAL

Recently, senior Bank staff have recognized building social capital as an important strategy for achieving sustainable development. Social capital refers to the social fabric of a community including those features of social organization such as networks, norms, and social trust that facilitate coordination and cooperation for mutual benefit. Social scientists from a number of disciplines have demonstrated the importance of social capital for successful economic development. By analogy to physical capital or human capital, the concept of social capital may legitimize further Bank investment in the institutional, structural and procedural aspects of governance and civil society. The term could enable the Bank to conceptualize a greater role for governance and civil society issues in the development process.

of the three issues addressed in this paper: improving governance, strengthening civil society, and protecting human rights. These issues are closely related to each other, with substantial overlap between them. The paper separates the issues, however, because each raise different opportunities and challenges for the Bank, generally, and for the relationship between foundations and the Bank, more specifically.

II. The World Bank and Governance

BACKGROUND

Governance refers to the institutions, legal structures and processes for public administration with respect to the relationship between the government and its citizens. The Bank defines governance as: "the manner in which power is exercised in the management of a country's economic and social resources for development."[2] The key dimensions of good governance (for the most part at least conceptually accepted by the Bank) are increased accountability, predictability through the rule of law, fair and transparent procedures for public administration, and expanded opportunities for public participation.[3]

All components of good governance are not treated equally by the Bank. The Bank's approach to governance issues reflects its recurring division between "economic" and "noneconomic" factors. Noneconomic governance issues are typically not supported or considered by the Bank. On the other hand, the Bank readily embraces those governance issues that it deems necessary for a positive and stable investment climate or that can increase institutional capacity to carry out specific loan objectives. In this regard, the Bank has taken an increasingly active role, particularly as part of structural adjustment lending, in providing technical assistance to strengthen institutions, reform policies or build capacity. The Bank also takes "economic" governance factors into consideration in evaluating loans, and frequently makes "improvement" in governance a condition of further Bank lending.

The Bank's conditionality on loans has expanded from macroeconomic concerns to a broad range of public regulatory issues. As the Lawyer's Committee for Human Rights has observed:

Disbursements of funds would be made only if the government met conditions set, such as to reduce the number of civil servants, restructure ministries and liquidate public enterprises or restructure or offer *them for sale. In many instances, measures have required extensive legislative changes, particularly in the areas of labor regulation, investment, taxation and generally in what has become known as the "enabling business environment." Conditionality has evolved from macro-economic measures to detailed reforms affecting the public administration itself.*[4]

The range of law and policy issues in which the Bank now gets involved under the rubric of promoting an "enabling business environment" is thus quite extensive, ranging from financial management reforms to specific reforms in sectoral laws or institutions.

CHALLENGES RELATING TO GOVERNANCE

Ultimately, the distinction between the "economic" and "noneconomic" issues breaks down, and the Bank is left taking an ad hoc approach to when it will get involved with what reforms. Observers inside and outside the Bank are split over how to correct this. On the one hand, the Bank is increasingly involved in governance issues as an inevitable aspect of their development activities. Recognizing this, the Bank needs to adopt clear guidance for its staff. On the other hand, adoption of clear guidelines does not necessarily imply a broader role for the Bank in governance. Some critics believe that, as a top-down bureaucracy dominated by economists, the Bank may be inherently unsuited to promoting desirable improvements in governance.

The Bank's emphasis on traditional economic development models also translates into a fairly clear philosophy towards governance issues. Overall, the Bank emphasizes downsizing public bureaucracies, reducing the number of civil servants, and privatizing public enterprises and natural resources.[5] Many Bank-led governance reforms have profound political, environmental, social and cultural impacts. For example, the Bank's approaches to privatizing water rights and land reform present serious implications for indigenous peoples' ancestral rights and for environmental protection. Even the process used in Bank-financed policy reforms often does not include sufficient participation by subnational governments, NGOs and affected people. The resulting policies and institutions may reflect more the Bank's own interest in structural adjustment or in the need to implement specific sector loans than a broad political consensus that the particular approach is the correct one for that country. In fact, given the lack of transparency in law and policy making in many borrowing countries, the Bank's top-down approach to policy reform can exacerbate undemocratic policy-making procedures.

Mainstreaming Governance Concerns

As noted above, the Bank's current approach to governance issues is determined by the artificial distinction between "economic" and "noneconomic" aspects of governance. The resulting failure to articulate and adopt a coherent policy towards governance hinders those disparate governance reforms with which the Bank does get involved. Given the lack of consensus over the appropriate role of

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the Bank in governance operations, the Bank should spark a broader dialogue about its policy towards governance, perhaps culminating in a governance action plan and strategy, similar to that adopted for participation.

As the link between good governance and sustainable development is elaborated, the Bank should shift more support to capacity building and institutional strengthening in ways that improve governance generally. For example, less direct Bank support should go to technical assistance in reforming natural resource laws and more to strengthening the natural resource agencies and related enforcement mechanisms or to demonstrating participatory policymaking processes. Recognizing the linkage between governance and sustainable development might also lead to greater attention to transparent and open procedures and more support for social agencies such as health, education and environment.

To some extent, the Bank is already broadening its view towards governance and thus exploring the linkages between development and governance provides both a challenge and an opportunity. For example, the Bank has recently tried to strengthen judiciaries in several countries, including Venezuela, Bangladesh and Tanzania. Strong and independent judiciaries are important both for ensuring consistent and fair business investment rules and for protecting individual rights.

Bank-Supported Reforms Have an Inherent Bias

As noted above, the Bank justifies its activities related to governance by linking them to improvements in the climate for business and foreign investment. The Bank's philosophical bias toward spurring private business investment and economic growth often stifles its ability to adjust to unique issues, challenges or values found in different cultures. Rather than fostering innovative and imaginative solutions to difficult problems, the Bank's approach too often attempts to replicate the experience of industrialized countries. As a result, policy reforms advocated by the Bank in many sectors, particularly natural resources, are demonstrably unsuccessful in achieving sustainable development. Bank-supported approaches to the privatization of water rights, forestry laws and land titling, for example, often mirror unsustainable practices in industrialized countries and exacerbate the trend toward unsustainable exploitation in the borrowing country.

In addition, the Bank's disproportionate support to certain public institutions can distort the overall governing structure in the borrowing country. The Bank has historically assisted in building huge and powerful ministries within countries, in part because the Bank needs a strong client for long-term lending. This has been well documented in the case of the energy ministries and utilities in India and Thailand, for example. The Bank reinforces the power wielded by financial, trade and industrial sector ministries, increasingly marginalizing those social-sector agencies addressing issues such as education, environment or health. In part, the Bank can remedy this by considering public administration across all agencies as a goal of development activities, instead of considering individual ministries and policy reforms as solely instruments of development.

Governance Capacity and Structural Adjustment

Researchers within the Bank have identified the vital role that governance capacity plays in achieving successful economic development generally and in implementing structural adjustment more specifically.[6] Ironically, the Bank's structural adjustment policies simultaneously require a reduction in the size of government as they require more effective public administration. Structural adjustment assumes that governance effectiveness will increase as the size of the government decreases. Unfortunately, the reality in most countries has been the opposite: governance effectiveness declines at least initially as the government shrinks. As a result structural adjustment has not been implemented well even by Bank standards. Rather than blame the inefficiencies of the borrower government for failed implementation, the Bank should recognize the inherent impact of the structural adjustment program on governance capacity.

III. The World Bank's Role in Promoting Civil Society

BACKGROUND

Civil society refers to the complete range of nongovernmental organizations (NGOs) and to the interlocking network of procedures and institutions that allow the organizations to function and interrelate. For our purposes, the Bank's activities toward civil society can be divided into three categories: (1) activities related to strengthening civil society generally; (2) activities aimed at improving the relationship between the Bank and NGOs; and (3) activities specifically designed to improve participation, particularly of affected people, in Bank activities. As discussed further below, these activities are substantially limited by the Bank's failure to adopt a strategic, coherent approach to the strengthening of civil society as an independent goal.

Bank Activities to Strengthen Civil Society

In its most recent draft policy on NGO consultations, the Bank recognizes that it has "a role to play in ... encouraging an enabling policy environment for NGOs."[7] Under Mr. Wolfensohn, the Bank has taken some limited steps to promote civil society, generally. For example, the Bank in cooperation with the International Center for Not-for-profit Law is developing global standards and best practice guidelines for laws governing nonprofits. The Bank is also expanding its general support of legal and judicial reform. For example, a 1992 loan to Venezuela is intended to strengthen the enabling environment of the private sector by improving the efficiency of judicial institutions. Support for legal and judicial institutions is criti-

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cal for facilitating a legal framework that protects individual rights, such as the freedoms of speech, association, and assembly.

As with the discussion of governance above, support for Bank efforts to strengthen civil society is not universal. Many observers welcome any additional resources for strengthening civil society, particularly since many issues such as the reform of nonprofit laws are often neglected. Supporters argue that, just as the Bank promotes a stronger investment environment, it should also ensure fairness and transparency in laws relating to social associations and organizations, as well as to procedures for policy making. Critics wonder skeptically how the Bank can be expected to promote a strong, vibrant civil society particularly given its historical antipathy towards reform-oriented NGOs. Further dialogue regarding the appropriate role of the Bank in strengthening civil society could alleviate some of the opposition by clearly circumscribing the Bank's role and clarifying its commitment to a diverse civil society.

Bank-NGO Relations

A wide range of NGOs now regularly engage the Bank in discussions over all sorts of projects and policies. Pressure from NGOs has been one of the primary reasons the Bank has adopted its environmental and social policies, including policies and directives on environmental assessment, NGO consultation, access to information, resettlement, indigenous peoples, and the inspection panel. Support for these NGO activities as effective monitors of the Bank's progress has been an important initiative of several private foundations.

For its part, the Bank has increased formal and informal mechanisms for consultation and dialogue with NGOs regarding the Bank's goals, policies, projects and performance. These efforts include the: NGO-Bank Committee, the Bank's NGO Unit, the NGO sector studies underway in several countries, and the addition of NGO liaisons to Resident Missions in many South American and African countries. The net result has been a marked expansion and improvement in the flow of information and ideas between the Bank and NGOs.

The Bank's new draft Operational Policy and related guidance for involving NGOs in Bank activities continues the Bank's explicit categorization of NGOs. The Bank particularly recognizes the importance of those NGOs that provide services or can implement projects. The Bank has increasingly provided direct support to NGOs as low-cost and effective mechanisms for implementing specific projects.[8] The Bank also recognizes the legitimate role of NGOs who engage in constructive dialogue with the Bank or governments, or who represent affected peoples.

Despite real efforts to improve relations and dialogue with NGOs, however, the Bank's overall approach to NGOs still suffers from a pervasive antipathy towards policy-oriented NGOs, particularly those that criticize Bank policies or projects. The Bank frequently tries to distinguish between NGOs who want to work "constructively" with the Bank (i.e., service providers and similar NGOs) or borrowers and those NGOs that are more openly critical. Some observers believe this reflects a deliberate divide-and-conquer strategy supported by Bank management, including Mr. Wolfensohn. In the same vein, Bank management has recently reached out to Southern NGOs for the expressed purpose of countering the influence of Northern NGOs.

Expanding Public Participation in Bank Activities

Until recently, participation in Bank activities has not received formal attention by the Bank. Participation has been required, if at all, only as an element of other Bank policies—most notably, the environmental assessment and indigenous peoples policies. As a result and consistent with the Bank's "do-no-harm" approach, an explicit right to participate only exists in projects that pose substantial environmental or social impacts.

Missing from the Bank's approach is the recognition that participation is important for the success of most, if not all, development activities. The need to adopt participatory methodologies is thus independent from the severity or type of expected negative impacts. In practice, the Bank's failure to take a broader approach to participation has meant that affected parties, subnational governments and NGOs are frequently excluded from many Bank activities, where their participation is warranted both to satisfy minimum concepts of fairness and to provide valuable substantive input.

Because of pressure from the NGO community and the growing recognition of the importance of participation to the success of development, the Bank has launched a major new participation initiative (see Box 25) aimed at "mainstreaming" participation in all Bank operations. As part of this initiative, the Bank is preparing regional participation action plans and revising relevant operational policies to ensure greater participation in Bank activities. The Bank has also identified a large number of "flagship" projects that it believes will be models for demonstrating a new commitment to participatory development. The initiative marks a critical shift in the Bank toward viewing participation as important in itself and not simply as a set of procedures required for socially or environmentally controversial projects. Monitoring and assisting the Bank's efforts to "mainstream" participation presents both important challenges and opportunities for NGOs and foundations.

Most notably, the Bank is beginning to expand participation in the early planning phases of its country-level operations—for example, in developing the Country Assistance Strategy (CAS) and related background documents. The CAS is the central document for strategic planning at the country level; it is critical because it identifies the major goals and objectives for subsequent Bank lending to the country. Until recently, the CAS has been developed entirely through Bank-led research and negotiations with the borrower government and other donors, but little or no public participation. By the time

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BOX 25: THE WORLD BANK PARTICIPATION INITIATIVE

Near the end of 1990, the Bank launched the Learning Group on Participatory Development to examine the issue of participation and identify challenges to the Bank in expanding participation in its operations. After several years of study and investigation, the group proposed a long-term strategy and action plan for the Bank. The group recognized that "significant shifts will be necessary in the Bank's institutional culture and procedures if it is systematically to adopt participation as a regular feature of its work with borrowing countries."[1]

In September 1994, the Board approved the strategy and action plan committing the Bank to facilitating participation by helping governments create an enabling environment, by expanding the opportunity for participation in all stages of project design and lending, and by reviewing internal management procedures and incentives to encourage more participatory processes. The Bank's overall action plan was to be implemented through Regional Participation Action Plans. The Board also directed staff to develop a strategy paper on NGOs and an Operational Policy on participation.

Each region of the Bank has developed draft Regional Participation Action Plans. The regional plans address several categories of activities aimed at: (1) screening projects and other activities at an early stage to identify stakeholders and develop appropriate participation plans; (2) monitoring a range of "flagship" projects or activities to demonstrate and evaluate participatory methodologies; and (3) building Bank and borrower capacity in participation methodologies. The regional plans vary considerably in quality, each with some strengths and some weaknesses. In its ongoing review of the regional plans, the Bank needs to set minimum standards for the plans and adopt a more participatory process for finalizing them. In particular, the regional plans should: ensure that in-country stakeholders gain access to information in local languages; integrate participatory approaches equally into priority setting processes (e.g., country assessment strategies), policy-based lending (i.e., structural adjustment lending), and all sectors of project lending; move beyond consultation to active participation particularly in project development; and reflect a greater commitment of financial and human resources to participation, including training of Bank staff.

Mr. Wolfensohn has voiced his support for the participation initiative. Indeed, Mr. Wolfensohn will receive quarterly reports for nineteen of the "flagship" projects directly. In general, however, the Bank has not developed a clear methodology for evaluating the flagship projects or for documenting the effectiveness of participation in improving project quality. Without such documentation, the "mainstreaming" of participatory methodologies throughout all Bank activities must be considered unlikely.

[1] The World Bank, Operations Policy Department, The World Bank and Participation, (1994), at 1. The group defined participation as a "process through which stakeholders influence and share control over development initiatives, decisions and resources which affect them." Id. at 1.

the public is allowed to participate in the identification stage of specific Bank projects, it is often too late to promote many alternatives or to engage the Bank in a discussion of country priorities.

There are hopeful signs that the Bank may be expanding participation in these early stages. Mr. Wolfensohn has stated that citizens of borrowing countries should be involved in the development of the CAS, and this is beginning to be reflected in Bank operations. The Bank has experimented with expanded public consultation in certain CASs (for example, Bangladesh, Guinea Bissau, Lesotho, Malawi and Vietnam). The issue has also been discussed at several meetings of the NGO-World Bank Committee and the NGO Unit of the World Bank. From these discussions, Bank staff have begun to compile recommendations and methodologies for increasing participation in the CAS and the background economic and social work compiled in preparation of the CAS.

CHALLENGES RELATING TO CIVIL SOCIETY

Thinking Strategically About Civil Society

The Bank needs to think strategically about strengthening civil society as a separate goal, not simply an instrument, of development. As discussed above, except for some recent limited steps toward strengthening civil society generally, the Bank's major activities relating to civil society involve (1) strengthening its own rules for participation and dialogue with the public and NGOs and (2) increasing direct support to those NGOs that provide services or implement projects. Taken together, these activities do not reflect a coherent approach to achieving that commitment.

The increasingly clear linkage between a strong and independent civil society and sustainable development, however, necessitates that the Bank develop and implement a coherent strategy. Unfortunately, this is not yet completely accepted or operationalized by the Bank. As a result, the conceptual linkages between civil society, generally, and the Bank's approach to development need to be examined and developed further. Concepts like that of social capital need to be discussed in the context of improving project quality and facilitating sustainable development.

Promoting Diverse Voices in Civil Society

The Bank's categorization of NGOs is understandable for identifying the different ways that the Bank relates to NGOs, but the Bank needs to balance this approach with a clear policy that values a wide diversity of NGOs. The existence of diverse dialogue is a key indicator of a vibrant civil society. At the very least, the Bank must eschew any deliberate efforts to isolate those NGOs who criticize the Bank and borrowing governments. Distinguishing between good and bad NGOs according to whether you agree with their message, for example, is inconsistent with a strong, vibrant civil society and it could fuel the atmosphere of intolerance that emboldens some borrowing governments to oppress NGOs that criticize Bank-financed projects. Mr. Wolfensohn, in particular, could show leadership in fostering a climate of tolerance both within the Bank and within borrower governments for the wide range of legitimate functions served by NGOs, including the role of constructive and open debate.

Implementing Participatory Development

The Bank's current efforts to articulate a strategy and action plan for expanding participation is an important and welcome development. The challenge, however, remains one of implementation.

Historically, the Bank's record at implementing participatory development has not been promising. Compliance with existing Bank policies that include significant participation or consultation requirements—most notably, the policies on access to information, environmental impact assessment, and indigenous peoples—has not been good. To date, except for the beleaguered Inspection Panel (discussed in Box 26), no internal incentive exists to encourage Bank personnel to comply; in fact, the "culture of approval" documented by the "Wapenhans Report" still rewards loan approval, not project quality or

BOX 26: THE INSPECTION PANEL: AN EXPERIMENT IN ACCOUNTABILITY

In September 1993, adverse publicity from the Narmada dam controversy and release of the Wapenhans report detailing poor project quality, as well as explicit pressure from the United States and other donor governments, led the Bank to create an independent Inspection Panel. The Panel's opening in August 1994, marked the first time in the Bank's 50-year history that affected people harmed by Bank-funded projects had an opportunity to request independent reviews of Bank activities.

The initial members of the Panel, elected by the Executive Directors upon recommendation by the Bank President, are: Ernst-Gunther Broder from Germany, former President of the European Investment Bank and Governor of the European Bank for Reconstruction and Development; Richard Bissel, an academic from the United States who has served in the U.S. Agency for International Development; and Alvaro Umana Quesada, the former Costa Rican Minister of Natural Resources. Mr. Broder is the chairperson.

The Panel's mission is to investigate claims filed by affected parties and to review the Bank's compliance with its own policies and procedures. After receiving a complaint, the Panel conducts an initial review, including a review of Management's response to the claim. Based on this review, the Panel recommends to the Executive Directors whether a full investigation is warranted. The Executive Directors retain sole power to authorize a full investigation. For investigations that go forward, the Panel enjoys broad investigatory powers including access to all Bank Management and staff. After the investigation, the Panel issues a report with its recommendations to Bank Management and the Executive Directors. Management is provided six weeks to respond and provide its own recommendations to the Executive Directors, who make all final decisions.

Three major claims have been filed with the Panel.

• Arun III. The first claim alleged violations of environmental assessment, resettlement and other policies in the siting of the controversial Arun III hydroelectric dam. The Panel had just completed a full inspection into the alleged violations when Mr. Wolfensohn announced in August 1995 that the Bank would no longer support Arun III. Mr. Wolfensohn cited the work of the Inspection Panel as one of the reasons for his decision.

• Planafloro. The second major claim related to the Planafloro project in Brazil's Amazon. The Planafloro project was designed in part to demarcate and protect indigenous territories and ecological reserves. After two years of failed implementation, twenty-five NGOs representing indigenous peoples, rubber tappers and environmentalists complained to the Panel that, among other things, the Bank's failure to oversee the Planafloro loan was enabling continued infringement of indigenous territories and ecological reserves. In January 1996, the Board of Executive Directors formally rejected the claim. As part of this decision, however, the Board required the Bank to implement an action plan for improving implementation and committed to a six-month review of the project by the inspection panel.

•Bio Bio. The third claim was filed by environmentalists and indigenous peoples concerned with construction of the IFC-financed Pangue/Ralco hydroelectric complex on the BioBio River in Chile. The claimants alleged that the IFC had violated applicable indigenous peoples and environmental assessment policies, as well as failed to supervise implementation of the project properly. The claimants recognized that the Panel did not currently have jurisdiction over IFC-financed projects, but requested in their submission that Mr. Wolfensohn authorize the Panel to investigate the claim anyway and that the IFC board adopt the Panel mechanism in the future. Mr. Wolfensohn subsequently agreed to launch an internal investigation of the claim and to consider extending the Panel's jurisdiction to the IFC.

In addressing these claims with objectivity and professionalism, the Panel has gained the respect and trust of the NGO community. The Panel is now seen as one of the most important opportunities for improving the Bank's performance and accountability. It is also viewed as an important model for similar mechanisms at the regional development banks (both the Asian Development Bank and the InterAmerican Development Bank have adopted similar mechanisms).

The Panel currently receives little support from within the Bank or from the Executive Directors. Most telling has been the Directors' refusal to approve the investigation of the Planafloro claim. To some extent, this reflects uncertainty in the board over what role the Panel should have in investigating ongoing projects. It also reflects the Directors' unwillingness to risk embarrassing major clients like Brazil, even when they are violating their loan agreement. Moreover, senior members of Bank Management have in the past second-guessed Panel decisions in ways that undermine the Panel's relationship with the Board. Perhaps most disturbing, the Bank is now actively streamlining operational directives, transforming many of the standards into unenforceable guidelines. There is evidence that Bank lawyers are taking this opportunity to "panel proof" their policies by eliminating all mandatory language, so that the substantive basis for the Panel's decisions will be narrowed.

In February, the Board will begin reviewing the Panel's record with the goal of revising its operating procedures. The Bank has yet to accept the Panel as either an important asset for management or a necessary mechanism for increasing accountability. In this context, Mr. Wolfensohn's strong leadership is particularly important for the future effectiveness of the Panel.

Many borrowing country NGOs leave consultations or participatory processes feeling that their participation was irrelevant.

compliance with Bank policies.[9] As a result, the amount of participation in Bank projects, for example, has been inconsistent, depending more on the individual project manager than anything else. Similarly, although access to information has become easier in the United States and other donor countries since passage of the Bank's new policy on information disclosure, access to information has not yet greatly improved in most borrowing countries. Improving implementation of these and similar Bank policies was a major reason for creation of the Inspection Panel.

Even where Bank staff adopt participatory methods, the quality of the participation is often very low. Many borrowing country NGOs leave consultations or participatory processes feeling that their participation was irrelevant. This partly results from the Bank economic staff's failure to accept the fundamental importance of public participation to their goals. For example, in a December 1995 meeting regarding the inspection panel a Senior Vice President stated to a small group that included only three U.S. NGOs: "This meeting is important; we want to be able to tell the Board we consulted with NGOs." As this anecdote illustrates, some Bank staff still see participation as necessary only for placating NGOs and to some extent the Board. Bank attitudes toward participation probably will not change significantly until Bank staff fully understand the connection between participation and project quality. As noted in Box 25, documenting this connection in Bank projects should be one of the primary goals of the participation initiative.

Improving the quality of participation will also require increased capacity within the Bank for participatory development as well as a strong commitment to adopt participatory methods earlier in Bank activities. Although these are in fact key elements of the new participation initiative, the recent reorganization of the Bank raises additional concerns about top level commitment to participation. Most alarming is that participation issues have been placed under the former chief economist for Africa, who does not have a strong track record relating to participation or similar issues.

Increasing Support to Smaller, Local NGOs

The propriety of the Bank providing direct support to NGOs is controversial. Some observers are concerned that the Bank and borrower governments exploit NGOs as low-cost service providers, overload their administrative capacity, and distort their accountabilities to members and beneficiaries. Others, including many NGOs, are eager to see a higher proportion of Bank funds diverted from government agencies to NGOs, which are seen (rightly or wrongly) as more effective, more efficient, and less prone to corruption in project implementation.

Assuming that some Bank funds are channeled to NGOs, a strategy for strengthening civil society would recommend diversifying support so that smaller, locally based grassroots groups obtain an increasing share of resources. Currently, much support from the Bank and other official development agencies goes either to donor country NGOs or to NGOs in the largest developing country cities. In both cases, more could be accomplished by putting increased support directly to smaller and rural NGOs or community organizations.

But providing support to smaller NGOs or NGOs located outside of major cities presents a major challenge to the Bank. Although the Bank has considered a small grants window for NGOs, it is generally more comfortable dealing in relatively large sums of money, and the administrative and other transaction costs of small projects are seen as too high. One possible strategy is for the Bank to find and support effective intermediary organizations that can accept large loans or grants and repackage them in sizes more appropriate for smaller, local NGOs or other assis-

Initial efforts by the Bank to establish foundation-like organizations have been mixed, in part because neither the Bank nor the borrower are committed to establishing truly autonomous funding mechanisms.

tance providers.

The need to develop effective strategies for reaching out to smaller NGOs is increasingly important, as the Bank has begun searching for better mechanisms to transfer some benefits of national development projects to the local people who often bear most of the social and environmental costs of projects. Initial efforts by the Bank to establish foundation-like organizations have been mixed, in part because neither the Bank nor the borrower are committed to establishing truly autonomous funding mechanisms. For example, the Pehuen Foundation, established as part of the IFC-financed Pangue Dam on the BioBio River in Chile, was one of the first such projects in Latin America and has recently been cited as a model by Bank staff. Yet, outside critics argue that the foundation's structure is not independent, that it is being used to promote the agenda of Chile's major electrical utility, and that it is not responsive to community needs. Because of this and other criticisms, Mr. Wolfensohn recently agreed to launch an internal evaluation of the Pangue project. The Bank's experience with other funds, for example, in the nature conservation area seems to be better, perhaps because the goals of these funds are less controversial and more clearly supported by the borrower.

To some extent, large foundations and other donors face similar challenges in their efforts to efficiently transfer more resources to local, small NGOs. Sharing experiences—successes and failures—offer an important area of collaboration between NGOs and foundations. For example, the foundations bring a rich experience with the development of community foundations in this country that could be usefully shared with the Bank, as it moves forward in establishing or supporting autonomous grant-making intermediaries. Foundations also have experience with multi-donor, international efforts to support NGOs at the local level. The Environmental Partnership for Central Europe, a project administered by the German Marshall Fund, is a current example that provides valuable lessons for the Bank and other donors (see Box 27). In the case of the Environmental Partnership, the foundations have successfully established autonomous decision-making structures with efficient administration and widespread credibility in the target countries. Similarly, the small grants programs funded by bilateral donors could provide important lessons (for example, the USAID-funded programs administered by the Institute for Soviet American Relations (ISAR) in the Newly Independent States of the Former Soviet Union).

IV. The World Bank's Role in Protecting Human Rights

BACKGROUND

Respect for human rights, particularly the freedoms of association, assembly and expression and the rule of law, is a necessary precondition for good governance and effective participation, as well as for making development sustainable. Yet, the same eco-

BOX 27: THE ENVIRONMENTAL PARTNERSHIP FOR CENTRAL EUROPE

The Environmental Partnership for Central Europe is a joint program of several U.S., European, and Japanese foundations administered by the German Marshall Fund of the United States. It provides small grants (up to $8,000) for technical and organizational assistance to NGOs and local governments in the Czech Republic, Hungary, Poland and the Slovak Republic. The Partnership's mission is to establish an institutional framework in the emerging democracies of Central Europe to enable foundations (and other funders) to address local environmental problems by strengthening and building NGOs and networks, promoting public involvement and participation, and reinforcing local government's environmental decision-making capacity. Behind this environmental mission, however, is the broader goal of the foundations to support civil society and democracy at the local level in this region.

The project began full operations in September 1991. An independent review of the Partnership in 1993 confirmed that the Partnership "approach, based on small grants and support guided by local Advisory Boards and Directors and staff based in each country, is highly effective. The result is fast, flexible, and nonbureaucratic support for actions leading to change in the region."[1] In essence, the Partnership has effectively solved the problem of how to transfer small grants to NGOs outside of capital cities. In so doing, it has built local capacity to administer grants in an objective way and built the seeds for a strong and diverse civil society.

The Partnership model, particularly its ability to build in-country capacity to administer grant-making programs objectively, is one that can be of value to the Bank, particularly as it grapples with the problem of how to return economic benefits from large national projects to the local communities who bear the brunt of the costs of the projects. Indeed, the Partnership has already been an important model for a USAID-financed effort to provide similar small grant support to the Newly Independent States (NIS) of the Former Soviet Union. That program, administered by ISAR, is widely viewed as one of the most successful initiatives of USAID in the NIS.

Indeed, establishing independent and objective mechanisms for small grant making could be an important collaboration of the foundations and the Bank to promote civil society and philanthropy in developing countries and countries in economic transition. The coordination could range from joint research or conferences to a major effort to establish effective independent grant-making bodies in certain countries.

[1] Robert C. Wilkinson, Independent Review of the Environmental Partnership for Central Europe, at 2 (1993).

nomic/political distinction that motivates the Bank in governance issues also explains the Bank's approach to human rights. The Bank's position is as follows:

Except in situations where the violation of human rights has created conditions hostile to effective implementation of projects or has other adverse economic consequences, or where there are international obligations relevant to the Bank, such as those mandated by binding decisions of the U.N. Security Council, the World Bank does not take into account the political dimensions of human rights in its lending decisions. The World Bank's Articles of Agreement prohibit the institution from taking political considerations into account, interfering in the political affairs of any country, or being affected by the political form or orientation of a country. Consistent with the Articles, the focus of the Bank's efforts in the area of human rights is on those rights that are economic and social in nature.[10]

Thus, for example, the Bank has recognized the close link between its poverty alleviation goal and the fulfillment of the U.N. International Covenant on Economic, Social and Cultural Rights (1966). This covenant codifies rights to work, to have a minimum standard of living, to be free from hunger, and similar economic-related rights. On the other hand, the Bank has not embraced the U.N. International Covenant on Civil and Political Rights, largely because the Bank maintains that recognition of these rights would constitute interference in the political affairs of member countries and be contrary to the Bank's Articles of Agreement.

The Bank's approach to human

The Bank's failure to recognize civil and political rights has led it to ignore serious human rights violations associated with projects and activities supported by the Bank

rights has raised many concerns. Even with respect to economic and social rights, which the Bank agrees it should respect, the Bank's record is suspect. For example, the disproportionate impacts of Bank-supported structural adjustment policies on the poorest sectors of society have often been cited as undermining, if not violating, economic and social rights. More visibly, the Bank's failure to recognize civil and political rights has led it to ignore serious human rights violations associated with projects and activities supported by the Bank—particularly those Bank projects affecting indigenous peoples or causing substantial resettlement. At the least, the Bank has been complicit in massive and well-documented human rights violations, including resettlement activities associated with India's Narmada Dam and Indonesia's Kedung Ombo project. (See the discussion of these dams in Box 5 of the Overview.) Partly in response to the dismal human rights records of these and other controversial projects, the Bank adopted policies and procedures intended to improve the treatment of displaced persons and indigenous peoples. Implementation of these policies has been widely criticized, however, and there is little confidence outside the Bank that its record will significantly improve in the future.

CHALLENGES PRESENTED BY THE BANK'S APPROACH TO HUMAN RIGHTS

Considering International Rights Standards

As a specialized agency of the United Nations, the Bank should at least take into account international human rights standards. The Bank has taken the very narrow position that it does not have to follow U.N. General Assembly Resolutions, but will be bound only by U.N. Security Council decisions. Yet, international human rights agreements, including General Assembly Resolutions and International Labor Organization (ILO) conventions, are evidence of widely accepted standards (formally ratified by most of the members of the Bank). These agreements thus set important goals, establish a baseline against which to measure performance, and provide guiding principles for shaping Bank actions while allowing the Bank to continue its political neutrality.

Lack of Leadership

The result of the Bank's de-linkage of human rights and development is that the Bank has abdicated much of the leadership role it could otherwise play. The Bank believes it adequately addresses economic and social human rights simply by promoting poverty alleviation and development. The Bank should be a forceful advocate that development built on the back of human rights violations is not sustainable and should not be supported. Strengthening the conceptual linkage between human rights and sustainable development could help the Bank fulfill this broader role.

Narrow Interpretation of the Articles

Although the Bank has begun to take some steps toward recognizing and supporting human rights, the mythology that the Bank simply cannot consider human rights issues continues at the Bank. This mythology in part stems from a narrow "legal" interpretation of the Articles of Agreement's prohibition against consideration of political issues. This provision does not necessarily apply to civil and political human rights issues; rather, it could be interpreted more generally to prohibit the Bank from favoring or disfavoring countries with certain political systems. The latter interpretation would permit a greater role for the Bank in human rights issues and would remove the legal curtain behind which the Board of Executive Directors and Bank management have effectively hidden their collective preference that the Bank should not consider human rights. To the extent that human rights are viewed as apolitical or universal, or to the extent that civil and political rights can be linked to the economic success of a country, efforts to ignore the relevance of human rights to development will become more difficult.

Limited Capacity to Address Human Rights

Even given the Bank's narrow perspective on human rights, there are some important steps the Bank could take. At the very least, the Bank needs to require its staff to investigate and consider the human rights records of the countries in which they are operating. Bank staff should probably avoid certain types of projects (for example, those causing massive resettlement) in countries where there is strong reason to believe that project implementation will only be achieved with human rights violations. Where the potential for human rights violations has been raised with respect to specific projects, the Bank should strengthen its supervisory and consultative role. Most of these activities require a concerted effort to sensitize Bank staff to human rights violations and to build their capacity to recognize and avoid them.

V. Conclusion

In conclusion, the Bank must grapple with the increasingly arbitrary line between "economic" and "political" issues as the linkages between governance and sustainable development become clear. The Bank must also do more to promote "enabling environments" for the emergence of strong and independent civil society organizations, and follow through on its commitment to increase public participation in Bank operations and policy development. Finally, the Bank must increase its sensitivity to the political contexts in which it works, and ensure that its projects and policies do not undermine the human rights of its intended beneficiaries.

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ENDNOTES

[1] The author thanks the following people for reviewing prior drafts of this paper or

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[2] Governance and Development, at 1 (1992).

[3] Governance and Development, at 31-40; Pierre Landell-Mills & Ismail Serageldin, Governance and the External Factor, in Proceedings of the World Bank Annual Conference on Development Economics 1991 (World Bank, 1992).

[4] Lawyers Committee for Human Rights, The World Bank: Governance and Human Rights 16 (1st ed., August 1993).

[5] Some of these issues relate closely to the trend in privatization. See P. Bosshard, "The Private Sector Lending of the World Bank Group: Issues and Challenges" (included as another paper in this volume).

[6] See, e.g., Leila L. Frischtak, Governance Capacity and Economic Reform in Developing Countries, World Bank Technical Paper No. 254 (1994).

[7] Involving Nongovernmental Organizations in Bank-Supported Activities, Draft Good Practices 14.70, Par. 25 (November 1995).

[8] The Bank makes grants to NGOs through the Consultative Group to Assist the Poorest, the Institutional Development Fund, the Small Grants Program, and the Special Grants Program. In addition, the Bank has identified the following additional sources of funding for enabling NGO involvement in Bank operations: the Project Preparation Facility, the Institutional Development Fund, the Global Environment Facility and administrative or supervision budgets. See Draft G.P. 14.70, Par. 18.

[9] Wapenhans, Willi A., et al, Report of the Portfolio Management Task Force (July 1, 1992). The so-called "Wapenhans Report," an internal Bank evaluation of project quality, documented an alarming rate of deterioration in loan quality. By the Bank's own standards, many projects simply did not achieve their objectives. If nothing else, the report has focused attention inside and outside the Bank on improving project quality.

[10] World Bank, Governance: The World Bank's Experience, at 53 (1994).

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