

Human Rights and the International Financial Institutions

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Introduction

The following essay reflects on the human rights implication of general policy and programs emanating from the principal International Financial Institutions (IFIs), primarily the World Bank and the International Monetary Fund. The essay focuses particularly on policy implication of charter mandates of the IFIs, and general programmatic work, project preparation and development strategies, such as recent Poverty Reduction Strategies developed to address the critical development needs of developing countries. The essay posits practical ways in which the IFIs can constructively incorporate rights-based policies in their lending and assistance programs.

I. Introduction to World Bank and IMF Articles of Agreement

The International Monetary Funds Articles of Agreement, its charter and guiding mandate states that:

The purposes of the International Monetary Fund are:

- (i) To promote international monetary cooperation through a permanent institution which provides the machinery for consultation and collaboration on international monetary problems.
- (ii) To facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy.

- (iii) To promote exchange stability, to maintain orderly exchange arrangements among members, and to avoid competitive exchange depreciation.
- (iv) To assist in the establishment of a multilateral system of payments in respect of current transactions between members and in the elimination of foreign exchange restrictions which hamper the growth of world trade.
- (v) To give confidence to members by making the general resources of the Fund temporarily available to them under adequate safeguards, thus providing them with opportunity to correct maladjustments in their balance of payments without resorting to measures destructive of national or international prosperity.
- (vi) In accordance with the above, to shorten the duration and lessen the degree of disequilibrium in the international balances of payments of members.

The World Bank's Articles of Agreement states the purposes of the Bank as:

- (i) To assist in the reconstruction and development of territories of members by facilitating the investment of capital for productive purposes, including the restoration of economies destroyed or disrupted by war, the reconversion of productive facilities to peacetime need and the encouragement of the development of productive facilities and resources in less developed countries.
- (ii) To promote foreign investment by means of guarantees or participations in loans and other investments made by private investors; and when private capital is not available on reasonable terms, to supplement private investment by providing, on suitable conditions, finance for productive purposes out of its own capital, funds raised by it and its other resources.
- (iii) To promote the long-range balanced growth of international trade and the maintenance of equilibrium in balances of payments by encouraging international investment for the development of the productive resources of members, thereby assisting in raising productivity, the standard of living and conditions of labor in their territories.
- (iv) To arrange the loans made or guaranteed by it in relation to international loans through other channels so that the more useful and urgent projects, large and small alike, will be dealt with first.
- (v) To conduct its operations with due regard to the effect of international investment on business conditions in the territories of members and, in the immediate postwar years, to assist in bringing about a smooth transition from wartime to peacetime economy.

Clearly the World Bank (henceforth “the Bank”) and the International Monetary Fund (henceforth “the Fund”) were designed with very specific purposes in mind. They were created to assist in the reconstruction of Europe post-World War II. The Fund’s purpose is unequivocally targeted to attaining financial stability in the international economic arena, and is largely concerned more with trade balances, exchange rate stability and balance of payments, than with reversing underdevelopment. In fact, at the time, underdevelopment was not the primary concern of the developed world, rebuilding *itself* was. The Bank’s Articles hardly suggest any more importance or objectives remotely significant to “sustainable development”, much less to human rights or other rights relevant issues pertinent to development. Its focus on transition from wartime to peacetime, and the importance assigned to investment, balance of payments, and guarantees, is a clear reflection of the reasons behind the creation of the Bretton Woods system back in the 1940s, namely to help Europe come back from the mass destruction caused by the war.

History would have it that these two institutions became two of the most important development institutions of the planet, and today, despite their very clear mandates to do otherwise, they must answer to a new set of problems and issues which are a product and concern of our time just as reconstruction was the focus of concern after World War II. Today we assign to the Bank a much broader mandate, and the Bank itself recognizes its “primary focus to be helping the poorest people and the poorest countries”. In even the most broad strict interpretations of its mandate, what the Bank says it strives for today is a far stretch from its purposes as outlined in the Articles of Agreement, which makes absolutely no mention of poverty.

It is important to point out that while the foundational charters of the Bank and Fund do not make reference to the issues surrounding development which concern us today, we should not think of the Bank and Fund as somehow having been created outside of the context in which they in fact came to be. The Bretton Woods agreements which gave rise to the Bank and Fund took place more or less at the same historical moment leaders gathered to create the United Nations, and gave form to the Universal Declaration of Human Rights (UDHR). These global leaders at the time paved the way towards more cohesive, collaborative and harmonic international development. It was clearly in the minds of these leaders that the Bank and Fund were critical institutions of society, and it should not surprise us that the very wording of the UDHR, attempted to capture all of societies actors under its umbrella. To this view, we recall that the preamble of the UDHR frames these leaders’ intentions and objectives, stating that:

every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction. (Universal Declaration of Human Rights)

II. Reflections of Rights Based Significance of Articles and IFI Agendas:

The debate now before us is what significance and relevance do human rights have (or should have) for IFIs and to what extent should IFIs be conducting their programmatic work (or not) grounded on a human rights or rights based framework, or at least with a view to “respect these rights and ... secure their universal and effective recognition and observance.”

The IMF has approached this issue with cautious resistance. The rhetoric coming from the Fund has centered on recalling and holding to their mandate, which is clearly financial in scope, and diverting any responsibility towards social development to its sister organization, the Bank. The Fund however, through much public scrutiny of its structural adjustment loans and conditionalities which have large impacts on policy decisions, has seen itself obliged to assume some responsibility for its subscriptions and take at least some minimal steps towards recognizing and addressing its programmatic impact on social issues, and in this respect, Fund leaders like Michel Camdessus have stepped out of traditional Fund boundaries and initiative commentary on the Fund’s role as a development organization.

The World Bank meanwhile, has been more forthcoming in taking on a revised role as a development organization for poor countries and has been more bold in stepping far beyond its charter mandate, developing programs centered on poverty alleviation, for example, rule of law, environmental protection, and other issues relevant both to economic and social development, as well as infrastructure development in the world’s most needy societies. The Bank has even delved into rights issues, including indigenous peoples rights, gender equality, and access to education, and on occasions explicitly embraced economic, cultural and social rights; it has emphasized the importance of good governance, rule of law, independent judiciaries, freedom of expression, freedom of association, and press. In its 1998 report: *Development and Human Rights: the Role of the World Bank*, the Bank states, “the World Bank believes that creating the conditions for the attainment of human rights is a central and irreducible goal of development”. Further, the Bank states in its core development assistance framework for designing lending and assistance programs for its borrowing members (referred to as the Comprehensive Development Framework), “without the protection of human and property rights, and a comprehensive framework of laws, no equitable development is possible.

Both institutions, however, have strongly resisted assuming any responsibility for the assurance or guarantee of human rights. The standard argument of the IFIs on this approach centers on the IFIs unwillingness to place conditionality on countries for *not* complying with human rights obligations under the treaties they have signed. They do not wish to become human rights policemen. This position is strongly echoed in the IFIs Executive Directors board rooms where countries like China, are vehemently opposed to international bodies reacting to their human rights performance. Clearly the fear of many countries like China is the potentially adverse impact to their economic trade and commerce due to trade sanctions levied under claims that they are not complying with western-conceived views of how societies should be organized and how it should treat individuals.

Human rights, in this respect is seen by many non-western or underdeveloped nations as merely another weapon wielded by the west (namely the USA and Europe) to hinder free trade and economic progress of non-western and/or underdeveloped societies with a legally fundamented excuse. This is also the view, for example of many western underdeveloped countries like Argentina and Brazil, who refuse to speak of human rights in forums such as the WTO and other regional trade agreements claiming that this is just another way for the US and Europe to gain an upper hand in their trade markets.

The fact that the rights based development discussion has turned towards debating whether IFIs should or should not police human rights stems from sophisticated legal reasoning suggesting that human rights essentially grant individuals entitlements giving rise, on the other hand, to obligations of others to give such entitlements (namely governments). Framing this discussion in these terms and on this issue has unfortunately led to widespread resistance on the part of the IFIs and on the part of some country governments to reject the rights based approach all together. The error of using this argument in this case, however legally sound it may be, is assuming that introducing a rights based approach for IFIs would necessarily force IFIs to have to address the obligation of the parties giving rights entitlements, rather than focusing on the content of the entitlement itself. That is, the IFI can quite naturally work to ensure that entitlements are realized, that is, its programs can be geared to delivering entitlement, rather than centering on whether or not a country government is living up to its obligations. In this respect, the IFI need not police the government so that it guarantee an entitlement to an individual, but rather assist the government to deliver the entitlement.

The legal arguments around this nuance and one position which appears in the discussion of a rights based approach at the IFIs seems to suggest that IFIs should set conditionalities on borrowing governments so that, if they are deemed to not deliver entitlements (or rights), then the IFIs should not approve their loans or go through with disbursements. This position indeed places the IFI in a position and role which at least today is incongruent with its mandate, but it also overestimates the capacity of IFI staff and procedures to determine when such rights non-compliance conditions exist, not to mention that it undermines the political reluctance of IFI boards to play such a policing role.

III. Responsibility of IFIs (beyond Articles of Agreement)

The IFIs, however resistant they may be to address human rights, are not immune from international tendencies to bring development issues back to basics and address development from a rights based optic. While the cold war years focused our understanding and concern for human rights on civil and political rights, the end of the cold war era, and the steady disappearance of dictatorial regimes common in the 1970s and 1980s through much of the planet, has turned our focus to economic, cultural and social rights. The International Covenant on Economic, Social and Cultural Rights, which came into force in 1976, outlines the very basic human rights deriving from the inherent dignity of the human person. These include among others, the

right to self-determination, natural wealth, fair remuneration, social security, food, education, health, culture, and to an adequate standard of living. Such rights, since their establishment, even dating back to their treatment in the original Universal Declaration of Human Rights, have been overlooked since their creation, largely due to the lack of political will to focus on them. Civil and political rights were first on the agenda, as western democratic societies somehow placed these rights far and above rights focusing on basic human dignity. Further, the realization of these rights in a largely unequal global society suggested that attaining such rights for all would be no easy task or inexpensive task.

With the fall of the Communist block, with dictatorships at a record low, yet with global poverty at alarmingly high rates, with inequality growing in developed and developing countries alike, with global health concerns at emergency levels, and thanks to large technological advances in the past decades which bring the world's social inequalities into our living rooms each night, economic, cultural and social rights have surfaced to the forefront of the development agenda. This is why today we are discussing whether or not the IFIs should in fact be striving to secure at least the bare minimum levels of human dignity based on universally accepted human rights.

It seems no one could argue against striving for universal education and access to health. The IFIs have understood that such targets are in fact reasonable, worthwhile and certainly within the scope of their work programs, even if their articles of agreement do not specifically mandate such directions. James Wolfensohn has steered the bank in directions not yet explored, and collaboration with UN Agencies such as the High Commission for Human Rights suggest that a rights based approach for development is not far off on the agenda. Statements from former IMF head, Michel Camdessus like: "even if the IMF's mandate obliges us to concentrate on the economic and financial aspects of the crisis (the global crisis), this effort only makes sense if it is oriented to the improvement of living standards and primarily the alleviation of the plight of the poor". It is interesting to point out that when the Fund's new Managing Director, Horst Kohler, newly arrived at the Fund directorship, attempted to steer it back towards a more financial and economically focused target, he met up with so much member and internal resistance that he was obliged to continue to embrace a broader understanding of the Fund's role in global social and economic development.

What is certainly important to understand today, is that as the recent and ongoing Argentine crisis shows, while the Fund and the Bank may downplay their role in guiding, causing, impacting, and/or influencing outcomes of international crisis, the rest of the world looks to country negotiations and accord with the IMF and the World Bank as a minimum base from which to further negotiations and design assistance packages. Without economic agreement with the Fund and the Bank countries are placed in a locked box with respect to other channels assistance. This reflection serves to stress the power of Fund and/or Bank approval for social development programs, economic performance, and other development initiatives. In this respect, a more harmonious relationship and link of Bank and Fund lending programs, policy recommendations and conditionalities to targets and objectives of basic human dignity indicators centered on

minimum social, economic, and cultural human rights standards, for example, can offer a critical rights based input to a countries overall development program.

IFIs have cautiously stood behind their Articles of Agreements and mandates arguing that their role as development organizations is limited to what is outlined in these texts, and that to step beyond these limits would be unwise. This has been particularly the line of the Fund. Yet while this is a strong legal argument in favor of limiting progress on the rights based front, the fact remains that institutions like the IMF have made overt and strong (conditional) recommendations about policy that extend far beyond their mandate, and in the name of financial equilibrium have caused substantial social and political disequilibrium. In the end, the aegis of non-intervention in political affairs grounded on charter limitations is used conveniently when it best suits the IFIs to do so, while it is totally ignored when it serves the immediate interest of the IFI. In this respect, there is at least a moral obligation of institutions like the Fund and the Bank to be consistent with their own actions, and accept that they in practice have a much broader scope and impact than their charters would suggest. In this respect, the policy implications of IMF pressure (or more generally, IFI pressure) should be explicitly recognized, and in this respect, seeing this influence through a rights based framework, may not be such a far fetched idea, irrespective of what the charters say.

IV. Poverty Reduction Strategies

The Bank and Fund's concerted latest attempt to address global poverty is summed up in an instrument and process started in 1999 framed by what they call Poverty Reduction Strategy Papers (or PRSPs). A PRSP is essentially an outline of a country strategy or program aimed at reducing poverty in poor countries. The PRSP is only intended for the poorest countries (referred to as IDA countries at the Bank) members of the World Bank and IMF.

A key characteristic of the PRSP is that it is supposed to be a more country-owned process. The Bank has over the last several years made an attempt to gain more country participation in the development of its lending portfolio. Despite the fact that loans and Bank-financed programs are theoretically supposed to be designed by debtor country staff and submitted to the Bank for funding, in practice, Bank staff have generally been at the design end of the process and countries have generally received fully developed proposals for funding which they merely take on as their own, as approved by the Ministry of Finance of the given country. While the extent to which the Bank staff actually drafts entire project proposals may vary between countries and even between sectors of a given country, Bank-heavy ownership and design of projects is fairly standard. The PRSP attempts to reverse at least one part of this historical tendency, namely the setting of strategies with respect to poverty alleviation.

The PRSP follows a loosely defined process grounded on four core elements which all PRSPs should provide: a) a description of the country's participatory process in the PRSP; b) a poverty diagnosis; c) the establishment of targets, indicators, and monitoring systems; and d) definition of priority public actions. For the sake of experiment and trial, and to get the PRSP process off the

ground as quickly as possible, the Bank has launched a set of interim PRSPs (IPRSPs) which are smaller (less in-depth) versions of full PRSPs and have already received feedback on the first set of over 50 countries which have completed either full PRSPs or IPRSPs.

Preliminary results since the launching of the PRSP process two years ago, and according to Bank reviews of the process show:

- a) A growing sense of ownership of government's poverty reduction strategies, as well as some civil society commitment to the process
- b) A more open dialogue with civil society has been attained where PRSPs have been tried
- c) Poverty related issues have taken on a more prominent place on the development agenda.
- d) The donor community has embraced the PRSP process.
- e) The need for realism in setting goals and targets, and managing expectations.
- f) The need to improve prioritization of policies and programs.
- g) The importance of a transparent process.
- h) The need to aim for long term poverty reduction.

The Bank strongly stresses the participatory nature of the PRSP process. Effective participation is key to the value and legitimacy of the instrument. In terms of human rights, the PRSP does not make any attempt to embrace human rights or even use rights-based language in the description of the underlying goals of the exercise. In fact, the target and nature of the PRSP is largely left to the government to determine, in principle, through a participatory process.

The PRSP process is geared to focus on poverty, which is obviously of great concern in the rights-based approach debate. Yet poverty is not discussed from a rights-based perspective. One of the central concerns, from the Bank's perspective of the process is to gain participatory input from the civil society in the definition of strategy. The Bank, however, has refused, with considerable civil society support for the decision, *not* to prescribe just how this process is to be encouraged or designed. It is left up to the government to determine just how participation takes place. The only element that the Bank requests from the government is an explanation as to how participation was carried out in the preparation of the PRSP. It is assumed that some degree of participation took place.

Some issues surface from the Bank's own review of the PRSP process, and from civil society commentary on the process.

Firstly, the PRSP process is, despite efforts to make this a country-driven process, a Bank-owned initiative. That is, it is designed and launched from within the bank for country governments to carry out. From the country perspective, it is yet one more procedure that they must comply with in order to be considered for further financing of programs. Considering that we are talking about some of the world's most highly indebted and poorest countries, the urgency to receive financing is certainly to be considered in assessing the true level of country ownership of the process, and to what degree it is simply not another bureaucratic conditionality to be complied with but not internalized in order to receive Bank support. The Bank's own review of the process suggests that the rushed nature of the process induced by Bank and IMF pressure to produce IPRSPs suggests that in fact this is not so much a country driven process, but rather a Bank process with which the country must comply. The Bank itself has concluded that the "incentives provided by the approach have induced governments, ... to prepare their strategies too quickly, unduly compromising the quality of the strategies-in terms of both technical content and broad-based country ownership". Another criticism reflects the non-binding nature of the process, as numerous civil society organizations have suggested that their input has been generally ignored by the government in the process.

Secondly, the participatory nature and effectiveness of the process is, by the Bank's own assessment, widely varied. It is also difficult to compare processes in the over 50 cases of PRSPs submitted to the Bank since there was no standard procedure or guideline as to how participation was to be carried out. The Bank does not wish to prescribe procedures, nor has it made Technical Assistance for participatory processes available in relation to the PRSP. The participating country government decides just how to carry out participation, in what manner and to what degree. We have come to understand just how important civil society participation can be for successful and sustainable development, as well as the limits in most developing countries to attain true participation, both from a perspective of government will to carry out participatory mechanisms, as well as the economic and practical feasibility of participatory processes. It seems uncertain from the preliminary findings just how *real and effective* participation in the PRSP will play out, and whether the PRSP process will truly be participatory, or if it will be a mere verbal explanation and superficial valuation by governments of their own view of just how participatory they have been in the PRSP. Some of the criticism received from civil society in the process centers on complaints that participation is only on the table for select policy and sectors, and that for relatively *no* participation existed in the formulation of broader macro-economic policy.

Thirdly, the Bank's assessment on the PRSP results shows that as in past cases, the Ministry of Finance is generally the direct counterpart and interested party in the development of Bank programs. The findings suggest that "sectoral ministries are less fully involved than core ministries, such as the MoF or the Ministry of Planning. This underscores the heavy handed design flaw of many IFI programs, centered on key national or international public servants, without truly

reflecting more broad-based input from other interested parties even within the government or across the IFI structures in the design process.

Fourthly, one important concern related to the PRSP process and which in design was to be addressed, but which in practice seems to be falling short of expectations, is the linkage between policy and outcomes. This issue is key to our discussion, since rights-based outcomes are central to linking policy and programs to human rights. It will be argued further on in this essay that the best that we can hope for in terms of a rights-based approach to IFI programming, is that IFI programs have a clear and positive impact on the attainment of basic levels of human dignity. In this respect, we must center our focus of the PRSP discussion on the links between policy choice and outcomes measuring for improvement in basic human rights indicators, including such elements as quality of life, access to education and basic health services. The Bank's findings suggest that PRSPs need to be less descriptive and center more on investigation of causal relationship between policy and outcome.

On a more positive note, the PRSP process has succeeded, in the view of many civil society groups, to bring critical development issues (which are also rights-based issues) such as access to education and health to the forefront of the development debate.

Civil and Political rights have also appeared on the agenda of several of the experimental PRSPs to date, in addition to concerns over governance and corruption issues.

Further, in at least one case (Bolivia) the strong emphasis on participation actually influenced society to work towards implementing national laws related to participation.

In reviewing some of the PRSPs that were presented in the first two years since its launch, improving access to education, especially at basic levels and in rural areas, was a key priority of all the early PRSPs. Similarly the case of improving access to health services was a key and central concern of participating countries. This fares well for those inclined to see the Bank and Fund's work steer towards issues that can be linked to clear human rights based objectives. Whether or not the measurable outcomes actually move us towards the realization of these rights is still to be seen.

V. Considerations for Implementing a Rights Based Approach for PRSPs

The PRSP is just one instrument of the Bank and Fund that can serve to bring human rights concerns to the IFI agenda. Such an approximation is at present, and at best, only indirect since, the PRSP will not likely make any reference to the objective or condition of attainment of human rights. It is not the only instrument, and we must recall that it is only pertinent to one part of the developing world, namely the poorest nations.

Poverty reduction, by nature, centers on a critical human rights issues, such as efforts at improving access to education and basic health services, which all seem to be central to the PRSP process. In this respect we are seeing basic human rights addressed, at least implicitly, by the PRSP process. The focus and push to strengthen participatory mechanisms is certainly a rights-based issue, although this is strictly a procedural rights issues, and not necessarily pertinent to substantive human rights.

Can we expect more or should we press for more? There are some areas where PRSPs and more generally, the Bank and Fund, can and should explore expanding its current position and take bold steps towards establishing a development framework explicitly committed to realizing universal human rights.

1. **Setting Targets and Establishing Indicators.** One of the elemental core aspects of the PRSP, and this is generally applicable to most Bank projects, is the setting of targets to be achieved by the given project or intervention. In the case of PRSPs, we are referring merely to the strategy, and not any particular project or program. Targets are key to understand how policy and programs impact in real life situations. Indicators help us evaluate our progress towards a specific target. The establishment of targets and development of indicators can easily and should be inspired by universal human rights. There is no reason why the Bank and Fund cannot set its development targets in harmony based on and with the expectation to realize universal human rights. This would not in anyway classify the Bank or Fund as human rights police or put IFIs in the uncomfortable position of human rights policeman, but rather, it would help orient IFI projects with a view to attending to basic human rights concerns. Setting targets such as universal primary education, access to basic health services for X percentage of the population should not generate hostile opposition from Bank member countries fearing human rights scrutiny.
2. Following the targets recommendation, more study is necessary on the part of the Bank and other IFIs on the relationship between policy and outcomes with respect to impacts on the attainment of human rights. The IFIs should be sharply aware of the impacts their programs and policy have on the attainment (or not) of essential human rights, and should subsequently use information about such causal relationship in the design of future programs.
3. The Bank and IFIs generally, should seek greater input and collaboration from other UN Agencies, such as the Office of the High Commission for Human Rights, the International Labor Organization and the World Health Organization. Collaboration between agencies, technical assistance and capacity building between agencies would help introduce critical human rights issues into the development agenda of the IFIs.
4. Presently, the Bank relies on the judgment of its staff to determine what targets should be, without proper expertise or understanding of basic rights issues. Bank staff should receive training on human rights and on the implications of Bank policy on the attainment (or not) of universal human rights. Without such training, Bank staff cannot be expected to understand the underlying principles of human rights and what they mean for their programmatic work.
5. Procedural rights. On the issue of Participation, more work is needed to increase real and effective participation. This is true at the national levels, where countries need further

guidance and encouragement to give rise and value to participatory processes, but also at the international level, where civil society input in the design and preparatory phase (ex-ante) of IFI projects is perhaps more worthwhile than present processes of ex-post review of completed underway projects. IFIs should regularly consult with civil society groups and make it a priority (and part of evaluation processes) of project task managers to consult with local civil society groups on each of their supervisory missions.

Note on Human Rights and Poverty Reduction Strategy: A Discussion Paper. By Hunt, Nowak, and Siddiq for the UN Office of the High Commission for Human Rights. February 2002.

The United Nations has initiated a discussion on the incorporation of human rights into all of the work of agencies of the UN. In this effort, a recent paper was produced to study the relationship of human rights to Poverty Reduction, and specifically to the PRSP process. Recommendations of this paper include:

That developed countries should:

1. Take into account of international human rights obligations to engage in international assistance
2. Take measures to ensure coherent and consistent application of these obligations across their international policy-making processes.
3. Support human rights related development projects and help developing states fulfill their core obligations.
4. Ensure that commercial activities for which the state has direct responsibility conform to international human rights standards.
5. Take reasonable measures to ensure that the overseas operations of companies headquartered in their jurisdiction are respectful of the international human rights obligations of both the home and host state.

These recommendations point strongly to the responsibility of countries to ensure entitlements, as well as to the very important issue of corporate social responsibility and liability for human rights violations. This last issue is key to global sustainable development and more importantly to global compliance with human rights norms. Unfortunately, the limited scope of this essay will not address this issues except to say that the development over time of binding corporate international legislation or a treaty on this issue is essential to securing true access to justice for human rights violations perpetrated by corporate actors.

With respect to obligations of countries to ensure entitlements, the view of this essay is that it is politically and institutionally more difficult for IFIs to work with obligations than to work directly with the entitlements of victims. In terms of donor country support, working with obligations may be an easier task than addressing the problem at the recipient level, whereas recipient government resistance to increasing or monitoring human rights obligations of states may become a highly controversial issues, perhaps too controversial for the IFIs to address.

VI. Comments on the International Jurists Mandate for the Implementation of International Sustainable Development Law

As part of the focus of this essay, a brief reflection below is included of the *Comments on the International Jurists Mandate for the Implementation of International Sustainable Development Law* (henceforth, “the comments”).

The comments point to the importance of strengthening participation both from a legal as well as procedural perspective as well as the significance of collaboration between international agencies to harmonize positions on development. In the case of IFIs, this should be a crucial focus of the agenda, which it already seems to be.

The comments also rightly highlight the need for strengthened international and national legislation related to sustainable development. This argument merits a discussion as to what role international law plays for IFIs and if compliance is to be a factor, then the issue of enforcement will also come into play. A discussion of this sort in the context of IFIs seems hardly probable at present.

We can highlight a few areas where further consideration or debate may ensue from the comments, such as whether in the context of the IFIs in particular we are to focus on obligations based human rights agenda or whether the issue is more about securing substantive content in the outcomes of program work. This issue was further detailed above, and the position of this essay is that substantive content may be a much easier way to insert the rights-based approach into the IFI agenda.

The principle of common but differentiated responsibilities, referred to in the comments, is also of significance, as this posits the differentiated obligations of countries, in the case of IFIs we may understand this to be (although not exclusively) a donor vs. aid recipient agenda. To divide the human rights agenda in the development debate in this fashion will certainly generate points of contention which may serve to deter, or at least cloud, the underlying objectives for the insertion of a rights based approach in the IFI agenda.

The section on interdisciplinary partnerships is critical to our discussion, as it is essential for the IFIs to harmonize their agendas with the work of other UN agencies, especially those concerned with human rights.

The issue of capacity building in the legal arena was not addressed by this essay, however it plays a fundamental role in compliance and access to justice in cases where human rights have been violated. A sound judicial system and effective channels of accessing justice are elemental building blocks for sustainable development. IFIs can play a key role in the development of sound judicial systems.

Corporate social responsibility is another key aspect of the sustainable development formula. In this regard, there is a huge challenge for the governments to work towards and agree upon effective frameworks to hold corporations liable for human rights violations. Work is underway to draft what might be eventually binding international legislation for corporations. Certainly further work will be necessary in this area.

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