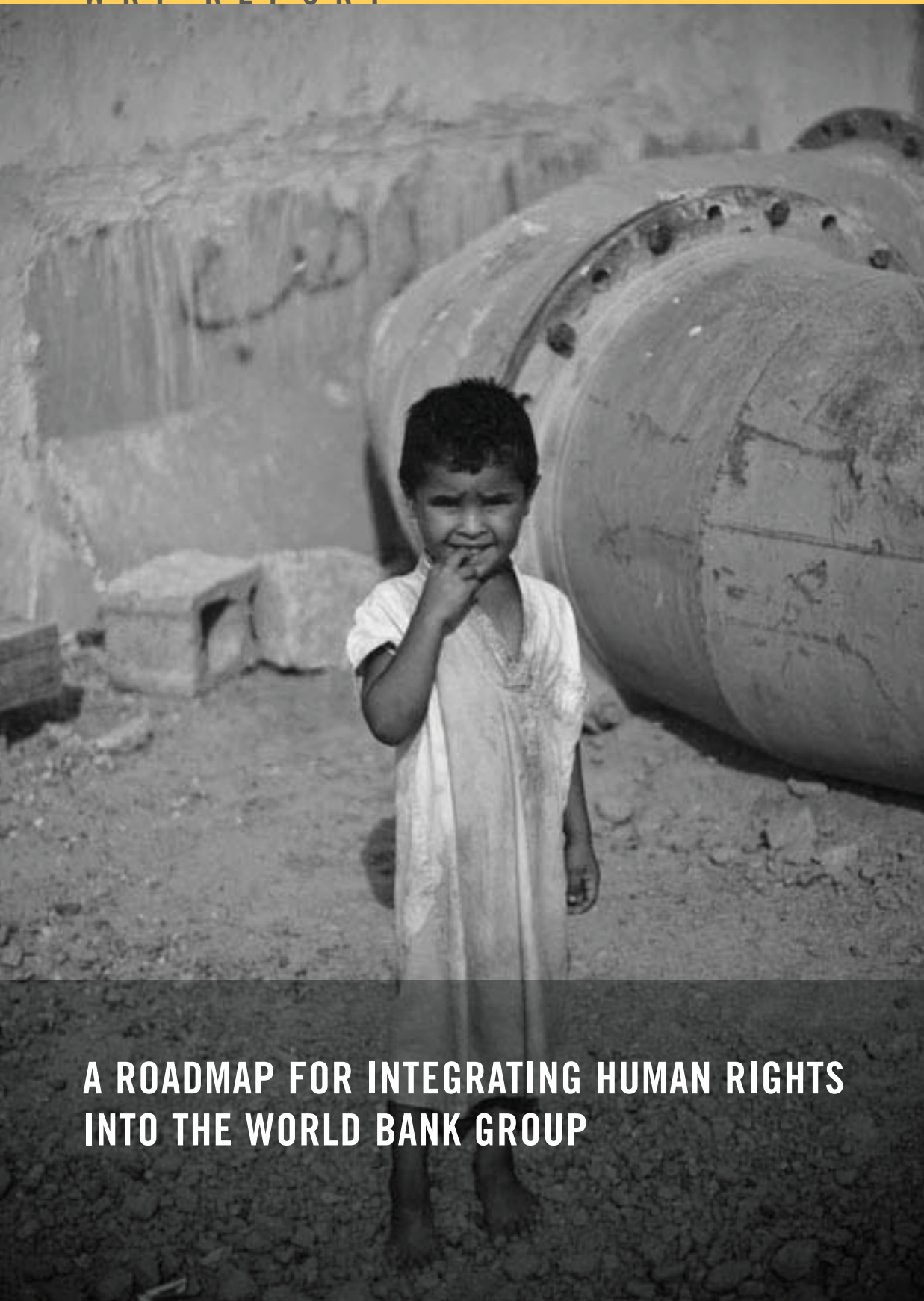


W R I R E P O R T



KIRK HERBERTSON

KIM THOMPSON

ROBERT GOODLAND

A ROADMAP FOR INTEGRATING HUMAN RIGHTS INTO THE WORLD BANK GROUP



© BRENDAN CARROLL

A Roadmap for Integrating Human Rights into the World Bank Group

KIRK HERBERTSON

KIM THOMPSON

ROBERT GOODLAND



WORLD
RESOURCES
INSTITUTE

HYACINTH BILLINGS
Publications Director

KIRK HERBERTSON, KIM THOMPSON, ROBERT GOODLAND
Authors

MAGGIE POWELL
Layout

Each World Resources Institute report represents a timely, scholarly treatment of a subject of public concern. WRI takes responsibility for choosing the study topics and guaranteeing its authors and researchers freedom of inquiry. It also solicits and responds to the guidance of advisory panels and expert reviewers. Unless otherwise stated, however, all the interpretations and findings set forth in WRI publications are those of the authors.

Copyright © 2010 World Resources Institute. All rights reserved.

ISBN 978-1-56973-745-3

Library of Congress Control Number: 2010926879

Table of Contents

ACKNOWLEDGMENTS	iv
FOREWORD – MARY ROBINSON	v
PREFACE – JONATHAN LASH	vi
EXECUTIVE SUMMARY	1
1. INTRODUCTION: THE CHANGING NATURE OF THE WORLD BANK GROUP	7
2. WHAT ARE THE LINKS BETWEEN HUMAN RIGHTS AND DEVELOPMENT?	11
3. WHAT DOES HUMAN RIGHTS INTEGRATION LOOK LIKE?	17
4. WHAT HAS THE WORLD BANK GROUP ACCOMPLISHED SO FAR?	21
5. WHERE ARE THE GAPS?	29
6. WHAT ARE THE NEXT STEPS?	35
7. CONCLUSION	41
ANNEX: LIST OF RIGHTS PROTECTED UNDER THE UNIVERSAL DECLARATION OF HUMAN RIGHTS	43

Acknowledgments

We would like to express our gratitude to the many generous persons who took the time to read drafts of this publication, provide feedback, and share ideas. The research and writing for this publication took place over the course of a year. During this time, the publication evolved dramatically. We are particularly grateful to Janet Ranganathan, who supported and challenged us throughout the process. Several of our colleagues at WRI provided valuable comments, including Athena Ballesteros, Emily Chessin, Phil Angell, Manish Bapna, Maggie Barron, Polly Ghazi, Beth Gingold, Paul Joffe, Jake Werksman, Lauren Withey, and Alisa Zomer. Hyacinth Billings, Jennie Hommel, Maggie Powell, and Margaret Yamashita went out of their way to provide assistance in the publications process on an expedited timeframe.

We are also grateful to several experts outside of WRI who took time to share their experiences and to review the draft—often more than once. They include Juan Martin Carballo, Leo Crippa, Kris Genovese, Heather Grady, Korinna Horta, Frances Irwin, the IFC Compliance Advisor Ombudsman, Jen Kalafut, Amy Lehr, Ama Marston, Alessandra Masci, Anna Rooke, Giorgiana Rosa, Galit Sarfaty, Dinah Shelton, Andrea Shemberg, Jorge Daniel Taillant, Rob Wasserstrom, World Bank Group staff, and the World Bank Inspection Panel. This publication would not have been possible without their willingness to provide feedback and critiques. Their willingness to share their views and experiences does not imply an endorsement of this publication.

We would also like to express our gratitude to the artists and photographers who donated their photos for use in this report, and who provided their photos for public use on Flickr Creative Commons. They include Brendan Carroll, Julien Harneis (http://www.flickr.com/photos/julien_harneis), Justin King (<http://justinking.com>), Jonathan McIntosh, Lorena Pajares (http://www.flickr.com/photos/lo_/), and Dan Powell (<http://www.danieljpowell.com>).

Finally, WRI greatly appreciates the financial support provided by the Charles Stewart Mott Foundation for our International Financial Flows and Environment project.

Foreword

We live in times of enormous challenges—the global economic crisis, the urgent search for energy sources, growing food insecurity, and most of all the threat of climate change. At the same time, two-thirds of the way toward the target date for reaching the UN Millennium Development Goals by 2015, we are falling short on achieving shared commitments to reducing poverty and improving health and education for all, much less the broader vision outlined in the Millennium Declaration. We have not found the requisite policies, approaches, and political will to make broad-based and sustainable development happen for all.

The World Bank Group remains a central institution in financing solutions and providing policy advice to countries to reach internationally agreed development goals. It is imperative that its approaches make a real difference in sustainable development and poverty reduction. Given the scarcity of resources, improving the quality and use of aid is as important today as levels of aid. Governments, civil society organizations, and multilateral institutions broadly agree that accountability, participation, reducing inequality, tackling discrimination—especially for women and girls, building resilience, and national ownership are all critical to ensuring aid effectiveness.

These principles are consistent with the international human rights framework, to which all governments have agreed. Human rights provide a guide to and a benchmark for assessing the policies and progress of governments as well as of multilateral organizations. Human rights principles are instrumental in ensuring that our responses to global challenges and development needs do not exacerbate discrimination and inequity.

Addressing inequality, expanding access to justice, and strengthening the participation and voice of poor and marginalized people increases accountability of institutions and the effectiveness of aid resources. As the World Bank itself has often pointed out, the poor often suffer the most from emergent global crises, but in many countries they lack the rights and capabilities necessary to participate effectively in development decision-making. Greater attention to human rights can help empower the voiceless, and reverse the conditions that perpetuate poverty.

Historically, the World Bank Group has struggled with integrating human rights principles and obligations into its own policies and programs. Yet it has at different times shown its willingness to tackle the internal constraints to including promotion of human rights in its mandate and practices. Fortunately, the next few years provide an important window of opportunity to move forward. The Bank is undergoing significant policy and governance reforms, including changes to the Board of Directors' voting structure, the International Finance Corporation's Performance Standards, and the World Bank Group Energy Strategy.

This timely report from the World Resources Institute *A Roadmap for Integrating Human Rights into the World Bank Group* highlights the opportunities that exist to use these policy reforms to strengthen the human rights dimensions of the Bank's activities. It gives credit to the Bank for its accomplishments while raising questions and expectations about how the Bank must act differently going forward. I hope this report will contribute to further dialogue and joint action between the World Bank Group staff and Directors, its clients, civil society, and the people whose lives are affected by their decisions each day.

MARY ROBINSON

President

Realizing Rights: The Ethical Globalization Initiative

Preface

This report *A Roadmap for Integrating Human Rights into the World Bank Group* argues that the time is ripe for the world's leading development finance institution to improve its effectiveness by paying closer attention to human rights.

The basis of our argument in urging this course is a simple one. Effective development and poverty reduction—the World Bank's mandate—are intimately intertwined with environmental protection and good governance, including individual rights. Indeed, the former depends on the latter.

Natural resource destruction almost always means human misery, and hinders rather than helps economic development. Roughly half of all jobs worldwide depend on fisheries, forests and agriculture. In one fourth of the world's nations, natural resources directly produce more income than industry. Often, of course, it is the poorest people who suffer most from environmental degradation, and its impact on economic development. And their suffering is accentuated by lack of power and voice.

When mining, logging, ranching, or other forms of development threaten their homes and livelihoods, the poor are least able to defend their own interests, and least likely to have or assert property rights. In extreme cases, victims suffer not only from corrupt and illegal decisions, but from forcible relocation and the violent repression of legitimate protest. As a result, environmental protest and movements for political rights have often become wholly intertwined.

A few memorable individuals have emerged from the fray. The Brazilian rubber tapper and environmentalist activist Chico Mendes, murdered by ranchers for opposing the clearance of the Amazon. Ogoni leader Ken Saro-Wiwa, executed by the Nigerian government for his opposition to oil industry pollution and corruption. For every Chico Mendes and Ken Saro-Wiwa, however, there are hundreds of thousands of voiceless people whose hopes of a better future free of poverty are undermined by the degradation of natural resources on which they depend. As recently as August 2009, for example, World Bank Group President Robert Zoellick suspended palm oil investments by the International Finance Corporation (IFC) pending a sector-wide review of operations, following dozens of conflicts among local communities and indigenous peoples affected by palm oil production, some of whom found their lands seized without compensation.

This is why natural resource use and sustainable economic development are so intertwined not only with each other, but also with human rights.

While environmental and human rights abuses hinder development and anti-poverty efforts, however, the reverse is also true. Rights such as access to information and judicial redress, and the opportunity to participate in decision-making, can be an effective antidote to natural resource destruction and stymied development. Where local communities give free, prior and informed consent to development projects, for example, the outcome is more likely to be beneficial for all involved.

This is why WRI's work at the intersection of environment and development has a strong focus on good governance. Our research and projects around the world clearly demonstrate that good governance, including strong individual rights, is essential to achieving stable and sustainable development. It is also why, in this report, WRI argues that the World Bank Group can maximize efforts to achieve its anti-poverty mandate by using current internal governance reforms to more explicitly embed a human rights agenda in its policies and operations.

The World Bank and IFC have a vital role to play in promoting good governance—and therefore effective development—in emerging countries.

We hope that their leadership will take note of, and act on, the recommendations in this report.

JONATHAN LASH
President
World Resources Institute



©BRENDAN CARROLL

PURPOSE OF THIS REPORT

This report argues that human rights are an integral part of effective and sustainable development, and thus should be explicitly considered in all World Bank Group (WBG)* investment decisions. We examine the WBG's integration of human rights standards into its operations—highlighting accomplishments, shortcomings, and barriers—and suggest ways forward.

The international human rights framework has a complex and often politicized history. Human rights have traditionally been seen as duties held by a government with respect to each citizen in its jurisdiction. Defining the role of other actors—whether private or intergovernmental—has proved more controversial. Human rights are also difficult to quantify, and thus difficult to manage. While many countries recognize a human right to clean water, for example, the question of how much clean water per day is essential for individual human dignity remains unresolved. Furthermore, the implementation of human rights remains a challenge. The UN and numerous human rights organizations are working to clarify roles and responsibilities, help guide implementation and resolve key questions such as: which rights are universal? Do human rights reflect cultural biases of western countries? How does the human rights framework help manage trade-offs when resources are scarce?

Given the complexity of human rights, we recognize the challenges of defining the appropriate role of the WBG. The WBG is owned by more than 180 countries with diverse traditions, has a culture of quantifying the costs and benefits of its investments at the level of national economies rather than individuals, and aspires to be respectful of the boundaries between its role and the role of governments.

We therefore do not advocate that the WBG should shift its identity from a development to a human rights institution. We argue instead that as a development institution, the goals and values that human rights represent are already at the core of the WBG's mission, and that the explicit and systematic integration of

human rights into WBG operations could improve its effectiveness by enhancing the WBG's ability to manage risks and improve development outcomes. We hope this report will encourage staff and executive directors to begin examining how the WBG can incorporate human rights approaches beyond niche programs into mainstream activities.

HUMAN RIGHTS AND DEVELOPMENT

In the past decade, a wide range of development actors, from private multinationals to international development agencies, has begun to use human rights standards as a means of managing risks and recognizing the rights of disempowered people, particularly the poor. In many cases these efforts respond to the growing incorporation of human rights—ranging from the right to life, food, and health to freedom from discrimination—into national constitutions and laws.

The goals of human rights and development are inextricably linked and mutually reinforcing. Upholding human rights can help ensure the success of a development project by addressing the root causes of poverty. Conversely, violations of human rights—such as the repression of dissent, loss of community access to food and water supplies, poor health conditions for local laborers, or discrimination against poor communities—can prevent the investment from generating net development benefits.

Despite this clear linkage, the integration of human rights policies and programming into the World Bank Group's activities has met with resistance. The economic benefits of human rights protections are often difficult to quantify. As a result, the WBG has often judged investments successful on the basis of short term economic returns, rather than the extent to which they protect and promote human rights — particularly those of the poor. As this report discusses, this can raise risks that lead to the suspension of WBG investments, as it did in 2009 in the context of the entire oil palm sector.

Internal constraints are a major factor limiting the WBG's ability to integrate human rights into its practices. The WBG's governing boards** have thus far failed to reach consensus on whether human rights risk management¹ is within the explicit mandate of these

* The World Bank Group consists of (1) the International Bank for Reconstruction and Development and (2) the International Development Association (IDA), which lend to governments (these two institutions are known collectively as the World Bank); (3) the International Finance Corporation (IFC), which lends to private companies; (4) the Multilateral Investment Guarantee Agency (MIGA); and (5) the International Center for Settlement of Investment Disputes. This report focuses primarily on the World Bank and the IFC.

** Each institution of the World Bank Group has its own board, but the executive directors serving on each board are usually the same. The WBG's president manages all the institutions. In this report, we refer to the boards collectively as the board of directors.



© LORENA PAJARES

institutions. Even governments that have supported human rights in other forums have been hesitant to discuss human rights at the WBG. This is despite the fact that in practice, the WBG’s safeguard policies already protect some rights of affected communities. This report argues that the failure of the WBG to more fully and systematically integrate human rights into its policies and programs has prevented these institutions from delivering on the development outcomes they seek.

BENEFITS OF A HUMAN RIGHTS APPROACH

Human rights standards² can help guide development institutions towards investments that focus on the needs and concerns of the poor and the vulnerable. Human rights standards can help empower citizens to engage in making development decisions, by directing attention to

the structural causes of poverty, including discrimination, exclusion, lack of accountability, and abuse of state power.³ They are also increasingly employed as a tool for managing risks⁴ and measuring the effectiveness of development (see Box 1). And studies have shown that many countries that demonstrate a higher respect for human rights experience higher economic growth.⁵

KEY FINDINGS

Our report draws on existing World Bank Group, UN, and civil society reports to create a snapshot of where the WBG is today, and discusses how we believe it is politically feasible to make further progress. The WBG’s activities affect a wide range of human rights, but we draw primarily from examples of rights of communities related to the environment and natural resource use.

Box 1. BENEFITS OF HUMAN RIGHTS INTEGRATION AT THE WORLD BANK GROUP



Box 2. SPECTRUM OF HUMAN RIGHTS INTEGRATION

LOW INTEGRATION	MEDIUM INTEGRATION	FULL INTEGRATION
<p>Implicit Work Development institution does not specifically work on human rights issues, although some activities may unintentionally promote human rights.</p>	<p>Mainstreaming Institution integrates “do no harm” steps into all aspects of its operations, in a manner consistent with the full range of international human rights norms.</p>	<p>Human Rights–Based Approaches Human rights are an explicit part of the goals or mandate of the institution.</p>
<p>Projects and Programs Development institution has some human rights-focused projects or programs, but these do not affect the institution’s overall business model.</p>	<p>Human Rights Dialogue Development institution and clients speak openly about human rights issues, risk management, and capacity building.</p>	
<p>Note: Adapted from OECD, <i>Integrating Human Rights into Development: Donor Approaches, Experience and Challenges</i> (Paris: OECD, 2006).</p>		

Examples include access rights (access to justice, public participation, and access to information),⁶ the rights of indigenous and vulnerable communities with strong ties to the land, and rights to food and water. Although we do not examine the full range of human rights—which range from the right to education to freedom of religion—we believe that many of our observations and recommendations apply broadly.

At the WBG, institutional barriers have hindered open dialogue about human rights.

In 2009, an internal survey of the World Bank revealed that overall, its staff considers human rights to be relevant to their work but are unsure how to implement them.⁷ Despite this interest, efforts to more systematically integrate human rights into WBG



©JUSTIN KING

operations have met with resistance, particularly from the member governments on the governing boards. In 2002, for example, the WBG’s president, James Wolfensohn, formed a task force to draft a strategy paper on human rights and the World Bank. The task force presented its report to the board’s development committee and recommended the adoption of human rights principles, but the committee did not approve the report. This was the last significant effort to engage the board on a comprehensive human rights strategy.

Many of the WBG’s activities protect and promote human rights, but the result is piecemeal, leaving significant gaps in efforts at protection.

Even in the absence of a comprehensive human rights policy, many of the WBG’s activities promote rights both explicitly and implicitly. Several WBG programs, for example, promote gender equality and legal empowerment of the poor. Nevertheless, our analysis has concluded that the WBG’s integration of human rights remains low (see Box 2).

OPPORTUNITIES TO MOVE FORWARD

Many development institutions—such as UN agencies, the European Bank for Reconstruction and Development, and some private financial institutions that invest jointly in development projects—have begun integrating human rights into their operations in earnest.

The next few years offer an important opportunity to advance the dialogue and action on human rights in the World Bank Group. First, the balance of power is changing on the WBG’s board of directors, which so far has been reluctant to embrace a human rights approach. The previous voting structure allowed a small number of donor countries to determine WBG financing. In this environment, discussion of human rights risks opened the possibility that WBG donors would use financial conditionalities to coerce changes in national legal and governance systems, or to censure governments for their human rights records. Now, however, a series of reforms are expanding the voting power of China, Brazil, India, and other emerging economies. The outcomes of these changing political dynamics are not yet clear. Reforms could lead to a complete dismissal of human rights integration at the WBG. But reforms could also lead to a greater willingness to discuss human rights risk management more openly without the risk of interference, because borrowing countries will have a greater voice in investment decisions.

Box 3. OPPORTUNITIES FOR HUMAN RIGHTS DIALOGUE AT THE WORLD BANK GROUP

TIMELINE	POLICY REVIEW	ENTRY POINTS FOR HUMAN RIGHTS DIALOGUE
2009–2010	Review of IFC Performance Standards, Sustainability Policy, and Disclosure Policy	Incorporate explicit human rights standards into IFC’s environmental and social risk systems.
2009–2011	Review of the WBG Energy Strategy	Encourage countries to assess explicitly how energy planning can promote basic needs and “do no harm.”
2010	Review of the IFC agribusiness and palm oil strategies	Undertake a sector-wide assessment of impacts on community land rights and access to justice.
2010	Discussions on the next International Development Association replenishment	Strengthen community access to the World Bank Inspection Panel.
2008–present	Negotiations on the role of the WBG in a post-2012 climate framework	Assess clean energy investments for discrimination against vulnerable groups.
2008–present	Expansion of national Reduced Emissions from Deforestation and Degradation (REDD) initiatives and the World Bank’s Forest Carbon Partnership Facility	Integrate the standards of the UN Declaration on the Rights of Indigenous Peoples into assessments of REDD proposals.
2005–present	Expanded use of country safeguard systems instead of World Bank safeguard policies	Develop tools for countries to identify gaps in human rights protections.
To be determined	Possible update of the World Bank’s safeguard policies	Incorporate explicit human rights standards into the World Bank’s environmental and social risk systems.

As discussed in this report, one starting point for dialogue could be human rights risk management for the WBG’s private sector investments—many governments on the board have already endorsed the UN Framework on Business and Human Rights, which identifies key components of a corporate human rights risk management system. Numerous policy reviews are also underway at the WBG that open other opportunities for dialogue (see Box 3). Each of these policy reviews has a potential human rights component.

RECOMMENDATIONS

This report proposes eight time-bound goals for integrating human rights more explicitly and consistently into the World Bank Group’s policies, processes, and operations (see Box 4). We recommend that by 2015, the WBG increase the dialogue among its staff and board and introduce human rights risk management practices into its operations to achieve a “medium” level of integration. After 2015, we recommend adopting an institution-wide strategy for human rights integration, in a manner both politically feasible and consistent with the WBG’s mandate. This would enable the World Bank Group to use the international human rights framework as a means to empower communities, improve risk management, and strengthen development outcomes.

Box 4. STRATEGIC GOALS FOR INTEGRATING HUMAN RIGHTS INTO THE WORLD BANK GROUP

SHORT TERM (by 2015) <i>Achieve a medium level of human rights integration.</i>	
1.	Begin an open dialogue on human rights at the WBG.
2.	Invest consistently with clients’ human rights obligations and responsibilities.
3.	Improve assessments of human rights risks.
4.	Integrate human rights standards into the WBG’s safeguard policies.
5.	Limit the types of resettlement that the WBG will support.
6.	Use the human rights framework to manage risks in fragile and conflict-affected countries.
7.	Empower communities to use the WBG’s grievance mechanisms.
MEDIUM TERM (after 2015) <i>Continue to strengthen human rights integration.</i>	
8.	Adopt a comprehensive WBG human rights strategy.



Introduction: The changing nature of the World Bank Group

RESPONDING TO GLOBAL CHALLENGES

The World Bank Group has a history of reinventing itself to meet new challenges in the effort to serve the global poor. In 2000, Ibrahim Shihata, the WBG's former general counsel, stated that "the Bank may, or even should, be able to elaborate on its mission and vision from time to time to meet the changing requirements of the world it serves," so long as the Bank stays within its legal mandate.⁸ In recent years, the WBG has rapidly adapted its portfolio to meet the demands of several emerging global crises that have threatened to undermine development. In response to the challenges of biodiversity loss and climate change, for example, the World Bank Group began efforts in the 1990s to "green" its operations and programs. These initiatives included increasing staff capacity to help client countries protect valuable the natural resources on which the rural poor depend, strengthening environmental safeguards for WBG-financed projects, and establishing new green investment initiatives such as the \$6.1 billion Clean Investment Fund (see Box 5). While these efforts are still evolving, many staff members now consider them to be crucial to the success of the WBG's mainstream investments.⁹

In recent years, the challenges that confront the world have grown. According to WBG research, more than 2.5 billion people live on less than \$2 per day,¹⁰ and the global financial crisis, climate change, and rising commodity prices have driven an estimated 65 million more people into extreme poverty.¹¹ Around 600 million people live in fragile and conflict-affected countries, where changing conditions can quickly plunge populations into crisis.¹² As development organizations try to respond to these challenges, there is a growing understanding both inside and outside the World Bank Group that human rights can help empower communities, strengthen risk management practices, and improve development effectiveness (discussed in "What are the links between human rights and development?" later in this report).

"The Bank may, or even should, be able to elaborate on its mission and vision from time to time to meet the changing requirements of the world it serves."

—IBRAHIM SHIHATA, GENERAL COUNSEL

Box 5. HUMAN RIGHTS, CLIMATE CHANGE, AND THE WORLD BANK GROUP

As the world turns its attention to the challenges of global climate change, the World Bank Group has increasingly dedicated resources to help finance climate change adaptation and mitigation. In the years ahead, channeling "climate finance" to developing countries is likely to become a significant part of the WBG's business model.

Climate adaptation. The physical impacts of climate change will affect many of the world's poorest and most marginalized people. According to the research organization International Council on Human Rights Policy, "Populations whose rights are poorly protected are likely to be less well-equipped to understand or prepare for climate change effects; less able to lobby effectively for government or international action; and more likely to lack the resources needed to adapt to expected alterations of their environmental and economic situation."^a As the WBG helps countries adapt to climate change, it may face additional human rights concerns, such as forced resettlement from flood-prone areas and discrimination regarding which communities receive disaster relief assistance.^b

Climate mitigation. Without measures in place to ensure an equitable response to climate change, global efforts, including those by multilateral development banks, run the risk of discriminating against the most vulnerable and of violating their rights to food,

water, and health. For example, to reduce greenhouse gas emissions, the World Bank Group is directing financing to biofuel projects (which can displace poor communities from forests and agricultural land) and reducing deforestation (which can affect communities' access to water, land, food, and cultural resources).^c

Climate change and human rights at the World Bank Group. Despite such prospects, to date the WBG has made few efforts to integrate human rights into its climate change activities, other than a research and workshop program highlighting "Social Dimensions of Climate Change," including gender equity, an indigenous peoples' agenda for climate change, and migration and resettlement issues. The review of the WBG's energy strategy and other policies provide an opportunity to consider the human rights implications of climate change activities (see Box 9).

Notes:

- a. ICHRP (International Council on Human Rights Policy), *Climate Change and Human Rights* (Geneva: ICHRP, 2008), 1.
- b. ICHRP, *Climate Change and Human Rights*, 2.
- c. See, e.g., Mary Robinson and Alice M. Miller, *Expanding Global Cooperation on Climate Justice* (Bretton Woods Project, December 2009).

EVOLUTION OF THE WORLD BANK GROUP'S FOCUS ON HUMAN RIGHTS

The World Bank Group traditionally considered human rights to fall outside their development mandates, reasoning that human rights were inherently “political” considerations.¹³ This began to change, however, in 1998 as the WBG recognized in principle that human rights were a fundamental part of development.¹⁴ Human rights gained further internal prominence when the World Bank Group committed to the human-centered UN Millennium Development Goals (see Box 6). Subsequent WBG research provides examples of where promoting human rights leads to stronger economic performance.¹⁵

As this report points out, promoting human development also promotes many human rights. Many of the World Bank Group’s existing activities thus implicitly promote and protect human rights, even if that is not their direct intention. For example, the WBG has supported research that deepens the global understanding of what it means to be poor, safeguarded the poor through social and environmental policies, and initiated new rights-centered programs such as the “Social Dimensions of Climate Change” (see Box 5).

The WBG board, however, has not embraced a comprehensive human rights agenda for the institutions it governs, leaving management and staff hesitant to discuss human rights openly or to seek its more widespread integration. As a result, substantial gaps remain between existing WBG policies and the full extent of what its institutions could do to promote and protect human rights while adhering to its legal mandate.

Currently, the WBG’s official position is that it “may play a facilitative role in helping its members realize their human rights obligations.”¹⁶ Despite these advances, human rights have not been systematically or comprehensively absorbed into the WBG’s operations (see Box 7).

MOVING FORWARD

The World Bank Group’s institutional structures are in flux, creating new opportunities to integrate human rights standards into its operations. The board of directors is readjusting the balance of power of member governments to give greater voice to China, Brazil, India, and other emerging economies. Also underway is a series of strategic and policy reviews, including an update of the IFC Performance Standards, the

Box 6. THE MILLENNIUM DEVELOPMENT GOALS AND HUMAN RIGHTS

In 2000, UN member states committed to promote development by improving the social and economic conditions of the global community by 2015. The Millennium Development Goals embody several human rights standards, which act as a guide for most development organizations and which the World Bank Group has committed to help implement.

MILLENNIUM DEVELOPMENT GOALS	KEY RELATED HUMAN RIGHTS
Goal 1 Eradicate extreme poverty and hunger	Right to adequate standard of living Right to work Right to food
Goal 2 Achieve universal primary education	Right to education
Goal 3 Promote gender equality and empower women	Women's right to equality
Goal 4 Reduce child mortality	Right to life
Goal 5 Improve maternal health	Women's right to life and health
Goal 6 Combat HIV/AIDS, malaria, and other diseases	Right to health
Goal 7 Ensure environmental sustainability	Right to health Right to water and sanitation Right to adequate housing
Goal 8 Develop a global partnership for development	Right to development Economic, social and cultural rights Right to health

Note: Office of the High Commissioner on Human Rights, UNDP 2006.

WBG Energy Strategy, the World Bank’s and the IFC’s disclosure policies, and the World Bank’s approach to investment lending.

These governance and policy reforms by the board create challenges, but also provide opportunities to open a dialogue on human rights and to improve human rights risk management at the World Bank Group. Indeed, the purpose of this report is to inform such a dialogue and propose a roadmap for integrating a more systematic approach to human rights into the WBG’s operations.

In the remainder of this report, we address the following questions:

- What are the links between human rights and development?
- What does human rights integration look like?
- What has the WBG accomplished so far?
- Where are the gaps?
- What are the next steps?

We conclude by proposing eight strategic goals to help the WBG better integrate human rights by 2015, the deadline to achieve the United Nations Millennium Development Goals.

Box 7. HUMAN RIGHTS: A BRIEF HISTORY

All human beings are born free in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

(Universal Declaration of Human Rights, article 1)

Human rights are the internationally agreed-upon minimum standards for treating humans with dignity.^a They were first expressed in international law in the Universal Declaration of Human Rights (1948), which articulated the human rights referred to in the founding charter of the United Nations. Numerous treaties have subsequently codified these rights.^b

According to the OECD, “Human rights constitute a unique, internationally shared and accepted normative framework, reflecting global moral and political values.”^c While human rights clearly have a moral basis, they have evolved into legal rights that clarify the relationship between governments and people. For example, most countries have laws that protect personal property from theft and protect people from murder or torture.

International human rights are partly the creation of international organizations.^d The first multilateral body to take up the issue was the International Labor Organization, whose efforts to protect the civil, economic, and social rights of workers began in the early part of the twentieth century. After World War I, the League of Nations addressed the rights of minorities and enacted treaties against slavery and the

slave trade. The full emergence of international human rights law began with the founding of the United Nations and of post–World War II regional organizations, which address the full range of economic, social, cultural, political, and collective rights. Today, international declarations, conventions, and treaties establish minimum standards for human rights laws and practices within each country.

Most governments now consider human rights to apply universally. At the 2005 World Summit, for example, the UN General Assembly passed a resolution that declared, “We reaffirm that our common fundamental values, including freedom, equality, solidarity, tolerance, respect for all human rights, respect for nature and shared responsibility, are essential to international relations.”^e All 192 UN member countries have ratified at least one of nine core human rights conventions,^f and more than 80 percent have ratified four or more conventions.^g Of the UN member countries, 160 have ratified the International Covenant on Economic, Social and Cultural Rights (1966), and 164 have ratified the International Covenant on Civil and Political Rights (1966).^h

Even though human rights are universal, the manner in which different countries implement and enforce them varies.ⁱ Increasingly, human rights dialogue has expanded beyond the role of governments to consider also the role of non-state actors, such as transnational corporations and international organizations, including development finance institutions.

Notes:

- a. UN OHCHR (Office of the High Commissioner for Human Rights) website, “What Are Human Rights?”
- b. UN Development Programme, “Indicators for Human Rights Based Approaches to Development in UNDP Programming: A Users’ Guide” (March 2006), available at http://www.undp.org/oslocentre/docs/HR_guides_HRBA_Indicators.pdf.
- c. OECD DAC (Development Assistance Committee), “DAC Action-Oriented Policy Paper on Human Rights and Development” (Paris: OECD, 2007).
- d. This paragraph is based on communication with Dinah Shelton, professor of human rights law at George Washington University, Washington, DC, March 11, 2010.
- e. UN General Assembly resolution on the 2005 World Summit, October 24, 2005, para. 4, UN Doc. A/RES/60/1.
- f. The nine core international human rights conventions are (1) International Convention on the Elimination of All Forms of Racial Discrimination (1965, 173 parties); (2) International Covenant on Civil and Political Rights (1966, 160 parties); (3) International Covenant on Economic, Social and Cultural Rights (1966, 160 parties); (4) Convention on the Elimination of All Forms of Discrimination against Women (1979, 186 parties); (5) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984, 146 parties); (6) Convention on the Rights of the Child (1989, 193 parties); (7) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990, 42 parties); (8) International Convention for the Protection of All Persons from Enforced Disappearance (2006, 13 parties); and (9) Convention on the Rights of Persons with Disabilities (2006, 65 parties).
- g. OECD DAC, “DAC Action-Oriented Policy Paper.”
- h. China, India, and Brazil have ratified the International Covenant on Economic, Social and Cultural Rights, but the United States has not. The United States, India, and Brazil have ratified the International Covenant on Civil and Political Rights, but China has not.
- i. UNHCHR (United Nations High Commissioner for Human Rights), “Frequently Asked Questions on a Human Rights–Based Approach to Development Cooperation,” UN Doc. HR/PUB/06/8, p. 5.



©LORENA PAJARES

**What are the links
between human rights
and development?**

A substantial body of research suggests that human rights are a critical part of development and that the absence of human rights standards contributes to poverty.¹⁷ A more systematic approach to human rights integration could also benefit the WBG and its clients, by ensuring that environmental and social risk management practices accurately reflect conditions on the ground and by improving measurements of development outcomes. At the same time, however, this body of research is still evolving, as the empirical case for integrating human rights into development needs to be better understood.

HUMAN-CENTERED DEVELOPMENT

Since the World Bank was created by member governments in 1945, development theory has shifted dramatically from an approach that measured success by growth in gross domestic product (GDP) to one that uses human well-being as a measure. This view holds that poverty is created by a series of deficiencies—sometimes

referred to as “negative capabilities”—of which monetary resources are just one factor. Accordingly, poverty should be measured by the absence of opportunities, capabilities, and personal freedoms.¹⁸ Besides the lack of income, examples of deficiencies are discrimination and exclusion from political processes, access to information and courts of justice, and access to clean drinking water, health care, and sources of livelihoods. Beginning in 2000, the World Bank Group published a three-volume series, *Voices of the Poor*, which adopted a decidedly human-centered perspective on development and advanced a global understanding of what it means to be poor.¹⁹

The United Nations Millennium Development Goals are the most important international iteration of the emerging human-centered approach to development. They establish a blueprint for development, including goals and indicators, that to date is the most widely accepted framework for aligning development assistance with concrete measures of human well-being. In 2000, the WBG adopted the Millennium Development Goals as the targets for its operations.²⁰



HUMAN RIGHTS AS STANDARDS

Although human rights are not synonymous with the opportunities, capabilities, and freedoms needed to eliminate all forms of poverty, they can help eliminate what are arguably the most important and fundamental drivers of poverty.²¹ Since the UN General Assembly adopted the Millennium Development Goals in 2000, many development organizations, particularly UN agencies, have accordingly shifted to a “human rights–based approach to development,” in which promoting and respecting human rights are explicit goals of development assistance.

Metrics and indicators based on human rights standards can enhance traditional measurements of development, and promote an understanding that economic growth should be seen as a means to, and not the end result of, development.²² Measuring projects by their potential to increase net social welfare—an aggregate calculation—hides the distribution of costs among individuals and communities.²³ Human rights standards can complement an economic perspective by placing greater emphasis on the individual and making sure that economic gains are not undermined by the creation of other drivers of poverty, such as discrimination and exclusion.

BENEFITS OF HUMAN RIGHTS INTEGRATION: MAKING THE BUSINESS CASE

The international human rights framework defines a set of widely accepted norms that can be used for measuring and managing risks. For development finance institutions like the World Bank Group, this enables risks to be captured that are not covered under standard environmental and social practices but fall uniquely within the human rights framework, such as risks of discrimination and exclusion of key stakeholders.²⁴ At present, WBG clients’ interpretation of “environmental” and “social” risks varies widely, and does not consistently include human rights risks.²⁵

Nevertheless, establishing a business case for human rights integration is a challenge. It is difficult, for example, to place an economic value on a person’s right to life, health, food, or culture. It is also difficult to reconcile the inalienability of human rights with the frequent need to make difficult trade-offs in development finance. As a result, there is little empirical evidence to demonstrate to what extent human rights integration contributes to development finance (although this is changing).²⁶ Nevertheless, some of the benefits for the World Bank Group include empowering the

poor, strengthening risk management, and improving development effectiveness.²⁷ These benefits are interrelated—empowering the poor, for example, improves risk management, which is likely to lead to better development outcomes.

“Without the protection of human and property rights, and a comprehensive framework of laws, no equitable development is possible.”

—WBG COMPREHENSIVE DEVELOPMENT FRAMEWORK

Empowers the poor

Development policymakers and practitioners now acknowledge that empowering the poor is essential to effective development. The British government, for example, believes that human rights help “[empower] people to take their own decisions, rather than being the passive objects of choices made on their behalf.”²⁸ The 2008 report of the UN Commission on Legal Empowerment of the Poor, for which WBG president Robert Zoellick was an advisor, noted:

While measuring the economic value of access to justice is notoriously difficult, most studies find that the rule of law makes a significant contribution to growth and poverty reduction. Yet studies that focus narrowly on the impact of the rule of law on the security of foreign investment understate its true economic benefits. Such studies neglect the value to the poor of being able to obtain redress for grievances. They omit the wider benefits of making all economic transactions and relationships predictable, transparent, and fair.²⁹

For more than a decade, the World Bank’s research and rhetoric have recognized the need to empower the poor by promoting awareness of rights and of legal systems to defend them. In 1999, the WBG adopted the Comprehensive Development Framework to oversee the design of poverty reduction strategies in each borrowing country. This acknowledged that “without the protection of human and property rights, and a comprehensive framework of laws, no equitable development is possible.”³⁰ The World Bank’s *Voices of the Poor* series described how the poor themselves define “poverty” to include powerlessness, lack of voice, and lack of access to basic services, conditions that the Universal Declaration of Human Rights seeks to prevent.³¹ In a speech at the 2005 annual meeting, WBG president Paul Wolfowitz, emphasized that “we cannot make headway in the fight against poverty without supporting equality before the



©DAN POWELL

law and the legal empowerment of the poor.”³² Similarly, the 2006 World Development Report focused on equity and development, examining how two principles—“equality of opportunity” and “avoidance of absolute deprivation”—can promote development.³³

Strengthens risk management for development projects

According to the IFC, “The business case for human rights is an increasingly important part of the human rights and development dialogues, the understanding of business risk for firms, and the mainstreaming of environmental, social and governance factors in investment analysis and firm valuation.”³⁴ The World Bank Group could facilitate private investment in development by improving human rights conditions and minimizing project-related risks. In so doing, the WBG will also minimize the risk to its own institutions’ reputations.

Human rights violations could cause WBG clients to suffer damage to their reputations, harm to employees,

complications in the use of security forces, and higher costs from operating in an uncertain environment. The World Bank Group also assumes these types of risks when a government or company uses World Bank or IFC financing in a manner that violates human rights. Recently, for example, both the IFC and the World Bank invested in the \$4.2 billion pipeline between Chad and Cameroon. Despite promises to use the project’s revenue for social development, the Chad government instead used it to purchase weapons and finance a rebel group operating in Darfur. The Chad government also arrested and tortured an opposition leader who had helped bring a claim to the World Bank Inspection Panel related to the project. In response, WBG President Wolfensohn telephoned President Idriss Déby of Chad to press for his release,³⁵ and the World Bank temporarily suspended its loan to Chad in 2006, although the IFC continued to invest there.³⁶

Governments created risks for the WBG in several projects as recently as 2009. In January, for instance, the World Bank suspended a loan to Albania for coastal zone management, after an internal investigation

Box 8. CASE STUDY: DANGERS OF DEVELOPMENT WITHOUT HUMAN RIGHTS

In Indonesia today, more than 500 conflicts affect local communities and indigenous peoples, many of these centering on palm oil development projects.^a While palm oil has provided revenue, infrastructure, and employment for small farmers, it also has brought significant social costs, with many poor, forest-dwelling communities finding their lands seized and converted into plantations without compensation. Although companies provide a source of income for smallholder farmers, in some cases farmers have been caught in perpetual debt traps. Local governments allow forest clearing to move forward without environmental permits. Communities become deeply divided between supporters and opponents of palm oil development.^b To respect human rights, palm oil developers and financiers should conduct careful due diligence before acquiring land or beginning production.

In 2003, the International Finance Corporation began financing palm oil-processing facilities in Ukraine and trading facilities operated by the Wilmar Group. Although the IFC did not directly finance any plantations, the facilities received oil palm from a number of plantations in Indonesia. In 2007, community groups and NGOs in Indonesia brought a complaint to the IFC's Compliance Advisor Ombudsman (CAO), citing allegations from communities that the IFC did not conduct appropriate due diligence on the impacts of Wilmar's plantations. The complaint claimed that IFC financing had supported a project that resulted in seizures of indigenous peoples' customary lands without due process, failure to inform and to consult communities affected by the projects, escalation of social conflicts between communities, repressive actions by company security forces, and clearance of forests on which people depended, without proper environmental permits in place. The communities had no access to justice from the government because local officials supported plantation development.^c

After conducting an investigation and mediation process, the CAO audit found that the IFC's "environmental and social due diligence reviews did not occur as required."^d The ombudsman also

found that the "IFC had no specific strategy for engaging in the Indonesian palm oil sector, even though it recognized the sensitive social, environmental, and governance issues inherent in the sector in Indonesia."^e The CAO process helped resolve many of the communities' concerns, and the Wilmar Group has since made efforts to improve its practices.

Yet the findings of the CAO audit gained international media attention, and in August 2009, the World Bank Group's president, Robert Zoellick, suspended further IFC palm oil investments until a sector-wide review of operations had been completed. The IFC has since extended the review to its entire agribusiness operations, recognizing that many of the impacts of the palm oil plantations also applied to soy, cocoa, and other sectors. For at least six months after this, the IFC's agribusiness department operated in a state of confusion, with neither the headquarters in Washington nor the field office in Indonesia knowing how to proceed or what to tell clients.

Notes:

- a. As of January 2008, for example, the NGO Friends of the Earth documented at least 513 conflicts in Indonesia between communities and companies, many centering on land rights. See Friends of the Earth et al., "Losing Ground: The Human Rights Impacts of Oil Palm Plantation Expansion in Indonesia," February 2008, p. 10. In January 2009, the NGO Forest Peoples Programme counted 576 conflicts affecting local communities and indigenous peoples in Indonesia. Presentation by Marcus Colchester, Director, Forest Peoples Programme at World Resources Institute, Washington, DC, November 20, 2009 (hereafter cited as Colchester presentation).
- b. See Colchester presentation.
- c. Forest Peoples Programme et al., Complaint to IFC CAO (July 18, 2007), available at <http://www.cao-ombudsman.org/cases/document-links/documents/IFCCA0letter18july.pdf>.
- d. IFC CAO, "Audit of IFC's Investments in Wilmar Trading Group" (June 19, 2009), 2.
- e. *Ibid.*, 27.

found that the project failed to comply with the Bank's involuntary resettlement policy, demolishing houses and leaving several families homeless.³⁷ Then in June, when a military coup in Honduras deposed President José Manuel Zelaya, the World Bank temporarily suspended all financing to the country.³⁸

The WBG has also encountered similar risks when companies used its financing to violate human rights. In June 2009, the IFC canceled its loans to the Bertin Cattle Ranching project in the Brazilian Amazon two weeks after Greenpeace published a report entitled "Slaughtering the Amazon," which documented the company's destruction of indigenous peoples' land and the use of slavery.³⁹ In August 2009, the World Bank's president, Robert Zoellick, suspended further IFC palm

oil investments worldwide until a sector strategy could be set in place (see Box 8).⁴⁰ In perhaps one of the most notorious cases involving WBG financing, the IFC withdrew its support for a \$3 billion liquefied natural gas project in Nigeria in response to the 1995 execution of Ken Saro-Wiwa and eight other Ogoni activists who had opposed the project.⁴¹

Improves development effectiveness

According to the 2000 UN Human Development Report, "Human rights and human development share a common vision and a common purpose—to secure the freedom, well-being and dignity of all people everywhere."⁴² If a WBG investment improves income or employment opportunities for a poor community but also

contributes to human rights violations, the project is not fulfilling this common vision and purpose. Integrating human rights into its operations should help the WBG and its clients avoid and manage these trade offs.

- *Weigh development options and measure outcomes:* By assessing human rights risks, policymakers can have a more complete understanding of the conflicting trade-offs surrounding development projects and can ensure that the costs of development are not disproportionately borne by the poor.
- *Enhance good governance:* The WBG increasingly recognizes that the principles of good governance—public participation, access to information, and accountability—improve development outcomes. Good governance and human rights are closely linked because governments must function well in order to protect human rights. Indeed, a critical aspect of good governance is the government’s capacity to respect, protect, and fulfill human rights. By using human rights as measurements of development effectiveness,

the WBG and its clients can identify vulnerable populations and ensure that they have a voice in decision making.

- *Strengthen economic growth:* Human rights standards could be used to help prevent child labor, create opportunities for equitable treatment of women, avoid elite capture of economic resources, and manage conflicts among competing interest groups (see Box 9). All these risks can disrupt economic growth. WBG researchers have sought to link respect for human rights with strong economic performance. For example, empirical research by the World Bank Institute concluded that “the extent of a country’s civil liberties has a substantial impact on the successful impact of government investment projects financed by the World Bank”⁴³ This research found that the WBG’s investments in countries with the strongest civil liberties, such as freedom of speech and association, have an economic rate of return 8 to 22 percentage points higher than in countries with the weakest civil liberties.

Box 9. HUMAN RIGHTS AND SUSTAINABLE DEVELOPMENT: ENHANCING THE DEVELOPMENT EFFECTIVENESS OF THE WBG’S ENERGY STRATEGY

In recent years, the WBG has played a leadership role in the global response to climate change. Between 2010 and 2011, the WBG is developing a new strategy to guide its investments in the energy sector. Although the energy strategy will not be legally binding on the WBG and its clients, it will serve as a useful model for countries that are developing their own sustainable energy policies.

Decisions that a government takes during the upstream-planning process, such as which energy sources to use, can have significant implications for human rights. Argentina’s former environment minister Romina Picolotti and Jorge Daniel Taillant of the NGO Center for Human Rights and Environment (CEDHA) provide several examples of how stronger consideration of human rights would enhance a country’s energy policy.^a

According to Picolotti and Taillant, the starting point of an energy policy should not be “How will the energy policy affect human rights?” but “How can the energy policy help promote human rights?” Some of their recommendations are:

- An energy policy should consider what sorts of energy answers poor and marginal communities will need to resolve their concerns with health, education, water, sanitation, productivity, and other development challenges.

- The policy should first examine how energy access could improve development opportunities for a given household, and how much that household could afford to pay for energy.
- The energy policy should guarantee that everyone receives equitable provision and accessibility of services, as well as non-discrimination in energy access and that vulnerable groups do not suffer a disproportionate burden of environmental degradation and contamination.
- Vulnerable groups should have the opportunity to participate in the policy’s development, should have access to information about energy choices, and should have access to effective remedies for any harm that is likely to occur.

WRI’s Electricity Governance Initiative provides a framework for doing so.^b By promoting open, transparent, and accountable decision-making processes, governments can ensure that upstream policy decisions promote human rights.

Notes:

- a. Romina Picolotti and Jorge Daniel Taillant, “The Human Rights Dimensions of the World Bank’s Energy Policy,” December 14, 2009, available at <http://www.bicusa.org/EN/Article.11688.aspx>.
- b. WRI, “Electricity Governance Initiative,” available at <http://electricitygovernance.wri.org>.



©LORENA PAJARES

What does human rights integration look like?

The integration of human rights will, of course, require more than an explicit public statement of commitment. Practical guidance on implementation for staff and clients will be essential. Recognizing this, many UN agencies and donor organizations have created tools to assist in such implementation.⁴⁴ Many companies also are gaining experience with human rights risk management.⁴⁵ This section of our report outlines some of the approaches to translating human rights into practice.

HUMAN RIGHTS PRINCIPLES

An important first step is making the “principles” that underlie human rights part of operations. For example, the UN’s Common Understanding on a Human Rights–Based Approach to Development Cooperation (2003) identifies several principles that underlie all human rights. By adopting these principles, development organizations can help empower people to claim their rights and can clarify the obligations of others to respect these rights (see Box 10).

Box 10. UN PRINCIPLES THAT UNDERLIE HUMAN RIGHTS	
Universality and inalienability	Every person has rights that cannot be taken away.
Indivisibility	All rights are essential to human dignity.
Interdependence and interrelatedness	Rights are often closely linked.
Equality and non-discrimination	A person is entitled to be free from exclusion and differential treatment in development activities.
Participation and inclusion	A person is entitled to meaningful participation in the decision making of development activities.
Accountability and rule of law	A person has access to justice when rights are not observed.
Note: UN, Human Rights–Based Approach to Development Cooperation: Towards a Common Understanding among the United Nations Agencies (2003).	

KEY ELEMENTS OF HUMAN RIGHTS INTEGRATION

There are dozens of human rights recognized across numerous treaties and conventions. Should a development institution integrate all these rights into its operations? When describing the duty of governments in relation to human rights, practitioners have used the terms “respect, protect, and fulfill.” To fulfill human rights, governments take actions to realize progressively

the enjoyment of basic human rights, such as rights to food, health, and housing. To protect human rights, governments take steps to ensure that third parties do not interfere with their enjoyment. To respect human rights, governments commit themselves not to interfere with their enjoyment (many companies have also assumed a “responsibility to respect” human rights).⁴⁶ Most of the WBG’s clients cannot meet all of these obligations immediately. Tradeoffs must be made, depending on the demands of clients and on harmonization with the activities of other development institutions. For example, in a particular country, WBG financing could focus on improving access to water and food, and other donors could concentrate on increasing access to health care.

Yet in some cases, tradeoffs cannot be made. Governments, development institutions, and companies should try to prevent human rights violations, e.g. by harming the health and or undermining the safety of local communities.⁴⁷ To do so, governments, development institutions, and companies can introduce a system that not only helps to prevent human rights violations, but also manages human rights risks that affect a project’s viability. Some key steps of “human rights risk management” include:⁴⁸

- Assessing projects upfront for human rights risks, including risks from contractors and supply chains.
- Giving the affected people an opportunity to influence the project’s design.
- Ensuring that the activity does not undermine the host government’s ability to meet its obligations under international human rights treaties and humanitarian law.
- Ensuring, before the development activity begins, that a system is in place to respond when rights violations are alleged, stop potentially harmful activities quickly, investigate, and compensate for any harm done.
- Monitoring for compliance with human rights requirements.

Additional measures are:

- Establishing an accountability mechanism, in which the communities adversely affected by development projects can bring complaints.
- Incorporating human rights indicators into measurements of development effectiveness.
- Harmonizing efforts with those of other development institutions by using similar human rights–based language to measure outcomes.

APPROACHES TO INTEGRATING HUMAN RIGHTS INTO DEVELOPMENT

In 2006, the OECD Development Assistance Committee, of which the World Bank Group is an official observer, published a report entitled *Integrating Human Rights into Development: Donor Approaches, Experiences and Challenges*.⁴⁹ The report lists five approaches that development organizations have used: (1) implicit human rights work, (2) human rights–focused projects and programs, (3) human rights mainstreaming, (4) human rights dialogue, and (5) human rights-based approaches. The report draws on examples from aid agencies and the WBG. We, too, used these categories to guide

our roadmap and inform our short- and medium-term recommendations for integration.

We further divided the five OECD approaches into “low,” “medium,” and “full” levels of integration (see Box 11). These levels of integration reflect the extent to which human rights–related activities necessitate broader reforms across a development organization’s portfolio of activities. A development institution achieves “low” integration when its activities address some human rights issues unsystematically, “medium” integration when it manages all human rights risks in all its operations, and “full” integration if human rights become an explicit and measurable goal of its operations. Next we analyze where the WBG is situated on this spectrum.

Box 11. APPROACHES TO INTEGRATING HUMAN RIGHTS INTO DEVELOPMENT		
	TYPOLGY	DESCRIPTION
LOW INTEGRATION	Implicit Work	Development institution does not specifically work on human rights issues, although some activities may unintentionally promote human rights.
	Projects and Programs	Development institution has some human rights-focused projects or programs, but these do not affect the institution’s overall business model.
MEDIUM INTEGRATION	Mainstreaming	Institution integrates “do no harm” steps into all aspects of its operations, in a manner consistent with the full range of international human rights norms.
	Human Rights Dialogue	Development institution and clients speak openly about human rights issues, risk management, and capacity building.
FULL INTEGRATION	Human Rights Based Approaches	Human rights are an explicit part of the goals or mandate of the institution.

Note: Adapted from OECD, *Integrating Human Rights into Development: Donor Approaches, Experience and Challenges* (Paris: OECD, 2006).



**What has the
World Bank Group
accomplished so far?**

Human rights integration has progressed at the WBG in a piecemeal fashion, with efforts documented across a range of reports, website pages, and conference presentations. In this section, we do not attempt to evaluate the success of these efforts but instead use the OECD framework to identify and categorize efforts underway at the WBG. Overall, we conclude that to date, the World Bank Group has achieved a low level of human rights integration (see Box 12).

While the WBG has taken steps toward medium-level integration by mainstreaming environmental and social safeguards into its investments, these measures do not explicitly address human rights. Human rights dialogue also remains weak, because neither the board nor the staff openly discusses the human rights dimensions of projects on a regular basis. For example, the World Bank approved 302 projects in FY2009, and our research suggests that the board did not discuss human rights explicitly in any of these investments.⁵⁰



Box 12. THE WORLD BANK GROUP'S PROGRESS IN INTEGRATING HUMAN RIGHTS		
	OECD APPROACHES TO INTEGRATING HUMAN RIGHTS INTO DEVELOPMENT	PROGRESS AT THE WORLD BANK GROUP
Low Integration	Implicit Work Development institution does not specifically work on human rights issues, although some activities may unintentionally promote human rights.	Many WBG projects implicitly promote human rights, e.g., projects to provide access to health care and primary education, end child labor, and ensure gender equality.
	Human Rights Projects and Programs Development institution has some human rights-focused projects or programs, but these do not affect the institution's overall business model.	The WBG's Nordic Trust Fund plans to integrate human rights into a limited number of pilot projects and country strategies.
Medium Integration	Mainstreaming Development institution and clients speak openly about human rights issues, risk management, and capacity building.	The WBG applies environmental and social safeguard policies to many investments, but most of these policies are not explicitly linked to human rights. Persons affected by WBG investments can bring claims to grievance mechanisms at the World Bank and the IFC.
	Human Rights Dialogue Development institution and clients speak openly about human rights issues, risk management, and capacity building.	The WBG has occasionally discussed human rights concerns with clients and, in some cases, has withdrawn from investments when concerns have not been addressed.
Full Integration	Human Rights-Based Approaches Human rights are an explicit part of the goals or mandate of the institution.	No progress.

Note: OECD, *Integrating Human Rights into Development: Donor Approaches, Experience and Challenges* (Paris: OECD, 2006).

IMPLICIT WORK ON HUMAN RIGHTS

The WBG's website acknowledges:

Although its policies, programs and projects have never been explicitly or deliberately aimed towards the realization of human rights, the Bank contributes to the promotion of human rights in different areas, e.g., improving poor people's access to health, education, food and water; promoting the participation of indigenous peoples in decision-making and the accountability of governments to their citizens; supporting justice reforms, fighting corruption and increasing transparency of governments.⁵¹

If the human rights dimensions of these initiatives (for examples, see Box 13) were more explicit and deliberate, would this contribute to a broader understanding of human rights across the WBG more broadly, and improve the WBG's effectiveness?

HUMAN RIGHTS—FOCUSED PROJECTS AND PROGRAMS

In the last 30 years, the WBG's leadership has promoted more than a dozen projects and programs with a specific focus on human rights but these have not led to human rights integration in the WBG's core activities (see Box 14). In 1998, on the fiftieth anniversary of the Universal Declaration of Human Rights, the World Bank published *Development and Human Rights: The Role of the World Bank*, a report outlining the Bank's role in advancing human rights. In 2002, President James Wolfensohn created a task force on human rights, headed by Senior Vice President Ian Johnson, which compiled a report suggesting that the board adopt human rights principles, although it subsequently failed to follow these recommendations. The World Bank also dedicated the October 2006 edition of its *Development Outreach* magazine to elucidating the linkages between human rights and development.⁵²

Perhaps most significantly, in 2009, the \$20 million Nordic Trust Fund began operating within the World Bank's Operations Policy and Country Services unit.⁵³ The purpose of this fund is to increase the staff's internal knowledge of the links between human rights and development. If successful, the fund will help coordinate human rights projects and awareness raising among the WBG's institutions and staff.



MAINSTREAMING HUMAN RIGHTS INTO SAFEGUARD POLICIES

The WBG also has in place a number of environmental and social policies to help ensure that its investments “do no harm” to people and the environment (see Box 15).⁵⁴ In the 1980s, in response to public criticism of its involvement in controversial projects—such as Polonoeste's BR-364 Amazon highway program in Brazil that uprooted indigenous communities, and the Narmada Dam in India that displaced 90,000 people—the World Bank began to develop safeguard policies that require clients to consider the environmental and social implications of projects. These policies now require clients to conduct an environmental assessment and consider a project's potential impacts on the surrounding communities before a project is approved. In many respects, these policies also help manage human rights risks. Yet most of these policies do not link explicitly to human rights.

The IFC's involvement in high profile and controversial projects led to the adoption of similar policies.⁵⁵ In 2006, the IFC established a set of “Performance Standards” to guide its corporate clients in environmental and social risk management. Through these standards, the IFC's influence stretches far beyond financing projects. More than 118 financial institutions worldwide have adopted the Performance Standards

Box 13. WBG ACTIVITIES THAT IMPLICITLY PROMOTE HUMAN RIGHTS

JOINT WORLD BANK / IFC INITIATIVES	
Gender equality	In 2007, the WBG launched a four-year action plan to mainstream gender considerations into its operations. The plan, called “Gender Equality as Smart Economics,” now funds 195 World Bank projects. ^a By 2010, the World Bank plans to address gender concerns in at least half its rural and agricultural projects, expected to total US\$800 million. The IFC will also direct at least \$100 million to women entrepreneurs by 2012. ^b
Governance and anticorruption	In 2006/2007, the WBG conducted consultations on its strategy on governance and anticorruption. The WBG also developed its Implementation Plan for Strengthening World Bank Group Engagement on Governance and Anticorruption, which the board approved in 2007. ^c
Legal empowerment of the poor	Beginning in 2006, WBG president Wolfowitz began to participate in the UN High-Level Commission on Legal Empowerment of the Poor, and the legal department crafted a corresponding action agenda for the World Bank. ^d
WORLD BANK INITIATIVES	
Social dimensions of climate change	The WBG initiated a research program that considers many of the rights-based components of the global response to climate change (see Box 5).
Community-driven development	Since 2000, the World Bank’s Community Driven Development program has lent approximately \$16 billion to more than 630 activities. ^e The program “gives control over planning decisions and investment resources to community groups and local governments.” ^f The bank has also supported a number of “social accountability” projects, such as citizen report cards in the Philippines, Albania, and Uganda. ^g
Justice and rule of law initiatives	Many World Bank loans have a legal or judicial reform component. Since 1992, the bank has awarded more than ninety grants worth more than US\$46.8 million for legal and justice reform, and it has financed numerous other activities. While not all these activities relate directly to human rights, many help promote the underlying legal system necessary to uphold human rights through assistance in court management and performance, access to justice, and legal information and education. ^h
Peacebuilding in fragile and conflict-affected countries	The bank has also provided support for state building in fragile and conflict-affected countries, including such activities as public administration, community development, infrastructure, demobilization, health, and educational services. ⁱ In particular, the \$100 million State and Peacebuilding Fund provides financing for small and urgent activities in countries at risk of sliding into crisis or emerging from conflict. ^j
Projects that contribute to economic, social, and cultural rights	In addition, a number of bank-financed activities improve economic, social, and cultural conditions. In response to the food crisis, for example, the bank established its Global Food Crisis Response Program in May 2008 to provide relief for countries affected by high food prices. ^k



©BRENDAN CARROLL

Box 13. (continued)
IFC INITIATIVES

Responsible use of security forces	In 2010, the IFC is developing an Implementation Guidance Tool for the Voluntary Principles on Security and Human Rights, a set of non-binding, practical principles to guide companies on the use of armed security forces.
Embedding gender in sustainability reporting	In October 2009, the IFC partnered with the Global Reporting Initiative to release a guide for improving companies' management and reporting of gender issues. ^l
Strengthening community development programs	The IFC has also worked to provide companies with resources to engage communities affected by projects. In January 2006, the IFC launched the Oil, Gas and Mining Sustainable Community Development Fund (CommDev), which works with companies to ensure that local communities benefit from extractive projects. ^m In 2007, IFC published an updated guide on stakeholder engagement. ⁿ
Foreign direct investment and human rights	In 2008, the IFC and the UN special representative on business and human rights published a joint study cautioning against governments' use of stabilization clauses in contracts that freeze the environmental, social, and human rights laws that apply to foreign investors. In many cases, these clauses have released foreign investors from liability for involvement in human rights violations. ^o
Human rights impact assessments	In 2007, the IFC, International Business Leaders Forum, and UN Global Compact developed a publication on human rights impact assessments. ^p The IFC road-tested the draft with several companies and is releasing a final version of the guide in 2010.
Labor standards	The IFC has undertaken a number of efforts to improve labor standards. In 2006, the IFC and the International Labor Organization created the Better Work Program, which seeks to improve standards in industries such as garments, footwear, plantations, electronic equipment, and light manufacturing while also improving competitiveness in global supply chains. ^q That same year, IFC also published a good-practice note on non-discrimination and equal opportunity in the workplace. ^r In 2009, the IFC and the European Bank for Reconstruction and Development (EBRD) published a guidance note on housing and accommodations for workers in projects funded by IFC and EBRD. ^s

Notes:

- a. World Bank website, "Gender and Development," available at <http://web.worldbank.org> > Topics > Gender.
- b. Ibid.
- c. World Bank website, "Governance & Anti-Corruption," available at <http://www.worldbank.org/wbi/governance>.
- d. Ana Palacio, "Legal Empowerment of the Poor: An Action Agenda for the World Bank" (Washington, DC: World Bank, 2005, revised March 2006).
- e. World Bank website, "Human Rights."
- f. World Bank website, "Community Driven Development," available at <http://web.worldbank.org> > Topics > Social Development > Community Driven Development.
- g. John Ackerman (2005), "Social Accountability in the Public Sector: A Conceptual Discussion." Social Development Paper 82, World Bank, Washington, DC.
- h. World Bank website, "Justice Reform," available at <http://web.worldbank.org> > Topics > Law & Justice Institutions > Justice Reform.
- i. World Bank website, "Fragile and Conflict-Affected Countries," available at <http://web.worldbank.org> > Projects > Strategies > Fragile and Conflict-Affected Countries.
- j. World Bank website, "State- and Peace-Building Fund," available at <http://web.worldbank.org> > Projects > Strategies > Fragile and Conflict-Affected States > State and Peace Building > State- and Peace-building Fund.
- k. World Bank, "Food Crisis: What the World Bank Is Doing" (December 9, 2009).
- l. Global Reporting Initiative press release, "IFC and Global Reporting Initiative Launch Guide on Gender and Sustainability Reporting," October 27, 2009.
- m. IFC, "Oil, Gas and Mining Sustainable Community Development Fund (CommDev)," available at <http://www.commdev.org>.
- n. IFC, *Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets* (Washington, DC: IFC, 2007).
- o. IFC and UN Special Representative to the Secretary General on Business and Human Rights, "Stabilization Clauses and Human Rights" (March 2008); CSRwire press release, "International Finance Corporation and United Nations Release Study of Human Rights and Investment Contracts," March 12, 2008.
- p. IFC website, "IFC Leads Development of a Guide to Human Rights Impact Assessment and Management (HRIA)."
- q. CSRwire press release, "IFC and ILO to Improve Labor Standards and Competitiveness in Vietnam's Apparel Industry," October 7, 2008.
- r. IFC, "Good Practice Note: Non-Discrimination and Equal Opportunity" (Washington, DC: IFC, January 2006).
- s. IFC and European Bank for Reconstruction and Development, "Workers' Accommodation: Processes and Standards" (August 2009).

Box 14. CHRONOLOGY OF EXPLICIT HUMAN RIGHTS ACTIVITIES AT THE WORLD BANK GROUP

1980	World Bank issues its first policy directive on involuntary resettlement.
1982	World Bank adopts its Indigenous Peoples Operational Policy, becoming the first multilateral development bank to establish a safeguard policy on indigenous peoples. Former general counsel Ibrahim Shihata labeled this the World Bank's first human rights policy.
1991	General Counsel Ibrahim Shihata interpreted the WB's mandate as follows: "No balanced development can be achieved without the realization of a minimum degree of all human rights."
1993	WB establishes an inspection panel as a formal grievance mechanism. The World Bank establishes a vice presidency for environmentally and socially sustainable development.
1998	The IFC adopts two of the ILO's core labor principles on extreme forms of child labor and forced labor. The WBG establishes the Compliance Advisor / Ombudsman as a formal grievance mechanism. The WBG publishes its first official report on human rights, "Development and Human Rights: The Role of the World Bank," which recognizes the bank's role in promoting and protecting human rights but falls short of clarifying any legal obligation to do so.
2000	The WBG publishes <i>Voices of the Poor: Can Anyone Hear Us?</i> the first of a three-volume series that takes a holistic perspective on poverty.
2002	WBG holds an internal workshop, "Human Rights and Sustainable Development: What Role for the Bank?" President Wolfensohn forms a task force on human rights with a mandate to draft a strategy paper on human rights and the bank, coordinated by the Social Development Department.
2003	The WBG's task force on human rights presents its report to the board's development committee, recommending that the board adopt human rights principles. The development committee does not approve the report. President Wolfensohn assigns a human rights portfolio to Mamphele Ramphela, the managing director for human development issues, and her senior adviser, Alfredo Sfeir-Younis.
2004	Senior World Bank officials attend the conference "Human Rights and Development: Towards Mutual Reinforcement" organized by Mary Robinson, the UN high commissioner for human rights and New York University law professor Philip Alston. President Wolfensohn gives the keynote address, and General Counsel Roberto Dañino outlines the World Bank's legal obligations to human rights.
2005	Alston and Robinson publish "Human Rights and Development: Toward Mutual Reinforcement." Thirteen WBG staff members contributed to the publication, including President James Wolfensohn, General Council Roberto Dañino, IFC Executive Vice President Peter Woicke, and World Bank Institute Director of Global Governance Daniel Kaufmann. The bank's legal department begins a research project surveying the use of human rights indicators at development organizations. The World Bank adopts a new social development policy containing three operational principles that are closely related to other agencies' human rights operational principles. ^a
2006	The World Bank Institute publishes the "Human Rights and Development" issue of its <i>Development Outreach</i> journal. General Counsel Roberto Dañino issues "Legal Opinion on Human Rights and the Work of the World Bank," which concludes that "the articles of agreement permit, and in some cases require, the Bank to recognize the human rights dimensions of its development policies and activities since it is now evident that human rights are an intrinsic part of the Bank's mission."
2008	The World Bank creates its "Social Dimensions of Climate Change" program.
2009	The Nordic Trust Fund begins operation.
2010	The World Bank publishes "Social Dimensions of Climate Change: Equity and Vulnerability in a Warming World."
Note: ^a OECD, Integrating Human Rights into Development: Donor Approaches, Experience and Challenges (Paris: OECD, 2006), 60.	

Box 15. WORLD BANK GROUP'S ENVIRONMENTAL AND SOCIAL REQUIREMENTS FOR CLIENTS

WORLD BANK SAFEGUARD POLICIES	IFC PERFORMANCE STANDARDS
OP4.01: Environmental Assessment	PS1: Social and Environmental Assessment and Management System
OP4.04: Natural Habitats	
OP4.09: Pest Management	PS2: Labor and Working Condition
OP4.11: Physical Cultural Resources	
OP4.10: Indigenous Peoples	PS3: Pollution Prevention and Abatement
OP4.12: Involuntary Resettlement	
OP4.36: Forests	PS4: Community Health, Safety and Security
OP4.37: Safety of Dams	
OP7.50: Projects on International Waterways	PS5: Land Acquisition and Involuntary Resettlement
OP7.60: Projects in Disputed Areas	
	PS6: Biodiversity Conservation and Sustainable Natural Resource Management
	PS7: Indigenous Peoples
	PS8: Cultural Heritage

for their own risk management systems.⁵⁶ Although the Performance Standards adhere to several International Labor Organization (ILO) conventions on labor rights,⁵⁷ they do not otherwise adhere to international human rights norms.

The World Bank Group also has helped manage human rights risks by responding to affected communities' complaints about the projects it finances and about non-compliance with its environmental and social policies. Both the World Bank and the IFC have grievance mechanisms where communities can bring complaints:

- The World Bank Inspection Panel, established in 1993, accepts complaints from groups of people affected by activities financed by the World Bank. The Inspection Panel determines whether the Bank has complied with its own internal policies.⁵⁸ Human rights have been a core issue in at least two panel investigations.⁵⁹ In the Chad-Cameroon pipeline case (2002), the panel explicitly considered "whether human rights issues as violations of proper governance would impede the implementation of the project in a manner that was incompatible with Bank policies."⁶⁰



©JUSTIN KING

Box 16. THE WBG'S EARLY LEADERSHIP ON INDIGENOUS PEOPLES AND INVOLUNTARY RESETTLEMENT

In some cases, the WBG's standards have contributed to the promotion of international human rights by creating new tools to help safeguard the interests of vulnerable communities.

For example, the World Bank and the IFC indigenous peoples' policies have contributed to global best practices on engaging indigenous peoples in projects that affect them. In particular, the WBG's policies require clients to create an Indigenous Peoples Development Plan, a tool that helps ensure that affected communities receive benefits from the project and have a voice in their communities' future development paths.

However, while the WBG policies paved the way for early protections for indigenous peoples, these policies now lag behind international standards. Most notably, the WBG's standards now lag behind the UN General Assembly's adoption of the 2007 Declaration on the Rights of Indigenous Peoples.

Similarly, the World Bank and the IFC were among the first organizations to adopt policies on involuntary resettlement and land acquisition. The WBG's requirement to create resettlement plans has played a significant role in ensuring that communities receive not only compensation but also livelihood rehabilitation. However, difficulties continue to arise from the large-scale resettlement of communities affected by WBG-financed projects, and the World Bank's research demonstrates that involuntarily resettled communities are seldom left better off.

Notes:

For examples of the problems that have occurred from involuntary resettlement, see generally World Bank Environment Department, "Resettlement and Development: The Bankwide Review of Projects Involving Involuntary Resettlement 1986–1993" (March 1996). See also, Alf Morten Jerve, "Social Consequences of Development in a Human Rights Perspective: Lessons from the World Bank," in *Human Rights in Development Yearbook: Global Perspectives and Local Issues*, ed. Hugo Stokke and Arne Tostenson (The Hague: Kluwer Law International, and Oslo: Nordic Human Rights Publications, 1998).

In the Honduras Land Administration case (2007), the panel interpreted a Bank policy as meaning that the Bank should have first considered a government's international human rights commitments to affected indigenous peoples.⁶¹

- The IFC Compliance Advisor Ombudsman (CAO), established in 1999, accepts complaints from individuals, groups of people, or organizations that believe they have been or could be affected by the environmental or social impacts of IFC or Multilateral Investment Guarantee Agency projects. The CAO may help the parties work collaboratively to address these issues and may also decide whether the IFC has complied with its own policies.⁶² In a 2003 advisory report, the CAO recommended that the "IFC and MIGA should more systematically consider potential risks to human rights at the project level, take appropriate steps to mitigate them, and provide clearer guidance to clients on both of these aspects."⁶³

In many ways, the WBG's safeguard policies and grievance mechanisms have paved the way for stronger environmental and social risk management in development finance (see Box 16). Yet, as the next section discusses, a lack of explicit consideration for human rights has left significant gaps in these policies.

HUMAN RIGHTS DIALOGUE

As discussed in the next section, the WBG's board of directors has thus far chosen not to adopt an explicit human rights policy, out of apparent concern that this would interfere with the sovereignty of client countries. According to our conversations with WBG staff, however, staff members routinely have dialogues with clients to resolve concerns with project implementation, and in this context they occasionally refer explicitly to human rights. In some cases, the WBG has taken steps to make sure that its financing does not contribute to human rights violations through application of environmental and social safeguards. WBG staff members do not receive systematic guidance on when or how these interventions should take place. Instead, these interventions often occur after the World Bank or the IFC receives pressure from civil society groups or the media.

"To some of our shareholders, the very mention of the words human rights is inflammatory language."

—JAMES WOLFENSOHN



© JUSTIN KING

Where are the gaps?

Human rights implicitly already play a prominent role in the World Bank Group's operations. But because the WBG does not have an explicit approach to human rights, gaps remain. Based on a review of WBG and civil society reports, this section identifies four gaps: (1) unresolved legal obligations of the WBG, (2) lack of open dialogue about human rights issues, (3) limited staff capacity to manage human rights risks, and (4) gaps in environmental and social policies.

UNRESOLVED LEGAL OBLIGATIONS OF THE WORLD BANK GROUP

Unresolved legal obligations are the principal barrier to implementing a comprehensive human rights approach at the World Bank Group, from which all other barriers and gaps emanate.

Under international law, the WBG itself has not directly assumed any human rights obligations. When member governments created the World Bank in July 1945, they limited its mandate to “economic” activities in order to safeguard the sovereignty of countries.⁶⁴ At the time, member governments did not foresee that human rights, recognized one month earlier in the 1945 founding charter of the United Nations, would affect the Bank's economic development mandate. Three years later, in 1948, governments adopted the Universal Declaration on Human Rights but have never revisited the World Bank's articles of agreement to reflect the evolution of international human rights norms.

The WBG's legal department initially interpreted human rights to be “political” activities and thus outside the institution's mandate.⁶⁵ Over time, this changed, particularly as the WBG expanded into activities such as governance reform, which first were considered political but essential to successful development outcomes. In 2006, Roberto Dañino, on his last day as the WBG's general counsel, issued an internal legal opinion stating that the Bank was able and, in some cases legally obligated, to address human rights concerns.⁶⁶ The board of directors, however, did not openly discuss Dañino's legal opinion. Ana Palacio, the WBG's general counsel from 2006 to 2008, interpreted Dañino's opinion as “permissive”: allowing, but not mandating, activities on the part of the Bank in relation to human rights.⁶⁷ This interpretation has not been sufficient to lead to a more systematic approach to human rights integration.

LACK OF OPEN DIALOGUE ABOUT HUMAN RIGHTS ISSUES

The WBG's board of directors—composed of member governments—has the responsibility of approving all policy reforms and investment decisions. In the past, some countries have opposed an explicit WBG human rights policy, concerned that it would open the door to rankings, assessments, and censure of their human rights records.⁶⁸ These governments argued that human rights would inappropriately interfere with their sovereignty by using financial conditionality to coerce changes in domestic legal and governance systems. Some have also opposed an explicit human rights agenda as a reflection of Western values.⁶⁹ Others have contended that a human rights agenda would increase transaction costs for loans.⁷⁰ Because the WBG's board operates by consensus, it has been immobilized on the issue of human rights. In response to this resistance, the WBG staff has started a limited number of human rights research programs but has undertaken few activities that refer specifically to human rights.

WBG staff members occasionally discuss human rights issues with clients, but not systematically. In particular, staff members and management lack guidance on how to respond to risks to human rights. The WBG has occasionally withdrawn from problematic projects, but the decision to withdraw is neither predictable nor always effective. In fact, in many cases, the WBG's withdrawal did not prevent the project from moving forward.⁷¹

LIMITED STAFF CAPACITY TO MANAGE HUMAN RIGHTS RISKS

Although most of the world's governments have made commitments to human rights, implementation remains a challenge. Governments that commit to human rights conventions must implement these rights through domestic legislation, which is not always achieved for political, financial, or other reasons. Many governments also lack the capacity to implement these commitments for all rights, and in many cases WBG staff members lack the expertise to ensure that the financial services requested are consistent with clients' human rights commitments. Understandably, when WBG staff members are not aware of human rights standards, they are unlikely to raise these issues with clients. A recent internal WBG survey, for example, found that “overall, staff view human rights positively and think that they often deal with human-rights-related topics in

their work, but have little knowledge about formal and institutional human rights frameworks and their role in the development process.”⁷²

GAPS IN ENVIRONMENTAL AND SOCIAL POLICIES

The WBG has likely mitigated many risks to human rights through the World Bank’s safeguard policies and the IFC’s Performance Standards. Similarly, both the World Bank’s Inspection Panel and the IFC’s CAO have a commendable record for resolving the concerns of communities affected by projects. But civil society organizations have identified many gaps that leave the WBG exposed to human rights risks, including the following.

Gaps in policy coverage

Substantial gaps can be found between current WBG policies and international human rights norms.⁷³ During the 2009/2010 IFC Performance Standard review, the IFC’s consultations with civil society groups revealed many such gaps (for examples, see Box 17).

Inconsistent consideration of human rights treaties and conventions

While the World Bank does not routinely consider governments’ international human rights commitments when implementing projects, there have been some notable and illuminating exceptions. In the 2007 Honduras Land Administration case, the Bank’s Inspection Panel interpreted a Bank policy (OMS 2.20) to require consideration of relevant human rights treaties.⁷⁴ In that case, the Inspection Panel found that the Bank should have considered whether the



©JONATHAN MCINTOSH

project would violate Honduras's commitments under ILO Convention No. 169 on the rights of indigenous peoples.⁷⁵ The World Bank's legal department, however, disagreed with this interpretation, underscoring the internal confusion over the role of human rights in bank policies and operations.⁷⁶

Similarly, although the IFC explicitly links Performance Standard 2 on labor standards to several International Labor Organization conventions, it does not do so for other treaties and conventions that touch on human rights.⁷⁷ Likewise, the IFC refers to some treaties and conventions, such as ILO Convention No. 169, in the "Guidance Notes" to its Performance Standard, but this guidance is not binding on its clients.

Continued involvement in involuntary resettlement

In some cases, the WBG engages in activities that undermine the livelihoods and rights of communities, its longtime involvement in involuntary resettlement being a prominent example.⁷⁸ Numerous WBG and international reports have documented the inherent

risks of involuntary resettlement,⁷⁹ which is equivalent to "development by force."⁸⁰ In 1996, the World Bank's environment department reviewed 192 Bank projects involving resettlement and, with one exception, found that "projects appear not to have succeeded in reestablishing resettlers to a better or equal living standard and that unsatisfactory performance still persists on a wide scale."⁸¹ While the WBG has not conducted a comprehensive assessment of its resettlement projects since 1996, civil society analysis suggests that the concerns remain the same.⁸² Even though the WBG's policies strive to ensure that those displaced by projects are better off, the overall record of large-scale resettlement remains poor.

Limited application of safeguard policies to innovative forms of finance

Under some types of financing, the WBG's influence over project development faces practical limitations. The World Bank, for example, often finds itself supporting projects that a government already has decided to carry out. Emerging national banks, such as Brazil's National



©BRENDAN CARROLL

Box 17. EXAMPLES OF HUMAN RIGHTS GAPS IN THE 2006 IFC PERFORMANCE STANDARDS

DUE DILIGENCE FOR COMPANIES		
INTERNATIONAL NORM	IFC STANDARD	KEY GAPS IN IFC STANDARDS
In his 2008 report to the UN Human Rights Council, Professor John Ruggie introduced a widely accepted framework to help companies conduct appropriate due diligence in order to meet their responsibility to respect human rights. Key elements of any human rights risk management system include (1) a company-wide human rights policy, (2) a human rights impact assessment, (3) tracking and reporting on implementation, and (4) access to remedies.	Standard 1 lays the foundation for an environmental and social risk management system for each project.	<p>The IFC does not consistently require clients to consider the full range of human rights risks as part of environmental and social impact assessments.</p> <p>Requirements for “project-level grievance mechanisms” encourage companies not to block access to justice in courts or other independent venues, but they contain no measures to verify this.</p> <p>The IFC is not required to inform affected communities that a project is financed by the IFC or that they have the right to bring complaints to the IFC’s Compliance Advisor Ombudsman.^a</p>
INDIGENOUS PEOPLES’ RIGHTS		
INTERNATIONAL NORM	IFC STANDARD	KEY GAPS IN IFC STANDARDS
In 2007 the UN General Assembly adopted the Declaration on the Rights of Indigenous Peoples, which enumerates current expectations for respecting indigenous rights. In order to implement the right to self-determination, the declaration requires free, prior, and informed consent of indigenous peoples for activities affecting them. Through the declaration, governments guarantee that indigenous peoples have the right to access their land and natural resources and to share in the benefits of development projects on their land.	Standard 7 focuses on indigenous peoples.	<p>The Performance Standards do not ensure that projects will proceed only after receiving the free, prior, and informed consent of affected indigenous peoples.</p> <p>There is lack of clarity on whether indigenous peoples have the right to withdraw from “good-faith negotiations” with companies if the proposed terms of agreement are unacceptable.</p> <p>The IFC is not required to assess the human rights conditions in a host country before financing a project affecting indigenous peoples.</p>
GENDER RIGHTS		
INTERNATIONAL NORM	IFC STANDARD	KEY GAPS IN IFC STANDARDS
The 1979 Convention on the Elimination of All Forms of Discrimination against Women creates a framework for ensuring equal protection and nondiscrimination based on gender.	All performance standards may have gender components, but none addresses gender explicitly.	<p>No specific safeguards guarantee fair labor standards and equal labor opportunities for women in affected communities.</p> <p>No specific safeguards address women’s particular security and health concerns.</p> <p>No land acquisition requirements protect the rights of women who may not own land but who are the primary agricultural labor force.^b</p>
HOUSING AND LAND RIGHTS		
INTERNATIONAL NORM	IFC STANDARD	KEY GAPS IN IFC STANDARDS
Housing and land rights provide security of land tenure and legal protection against eviction, harassment, and threats. A major problem occurs when a project displaces communities: unmitigated displacement leads to homelessness, loss of livelihoods, food insecurity, and disruption of community cultures and support networks.	Standard 5 focuses on land acquisition.	<p>The IFC does not ban involuntary resettlement or take steps to avoid displacement whenever possible.</p> <p>Protections extend only to those who are displaced by land acquisition. Displacement can also occur for a number of other reasons, such as polluted fisheries and water, air, and other damage to natural resources on which communities rely for their livelihoods.</p> <p>The IFC does not require clients to replace lost land with new land. Monetary compensation often is insufficient to rebuild lost livelihoods.^c</p>
Notes:		
a. For the IFC’s 2006 Performance Standards, see Submission by Civil Society Organizations to the IFC Commenting on the Social and Environmental Sustainability Policy, Performance Standards and Disclosure Policy, March 11, 2010.		
b. GenderAction intervention during IFC Consultation on Performance Standards, Sustainability Policy, and Disclosure Policy, Istanbul, October 2009.		
c. This information is drawn from discussions with the International Accountability Project.		

Development Bank and China's Export-Import Bank, provide financing options for developing countries from sources that may not have safeguard policies as stringent as those of the WBG. Furthermore, the IFC often becomes involved in projects at a later stage, when human rights may already have been violated. The WBG's leverage over investments continues to wane as it moves away from direct project finance to "indirect" finance through financial intermediaries, trade finance, and development policy loans.⁸³ This presents the danger that these financing structures may over-extend the WBG's capacity for monitoring and oversight.

Lack of public awareness of World Bank Group's grievance mechanisms

Community awareness of the World Bank's Inspection Panel and the IFC's CAO remains limited, a problem that is growing as the WBG supports projects through indirect finance. Even those communities that do know about the WBG's involvement in a project are often unaware that grievance mechanisms exist.

The WBG does not require its clients to inform affected communities about these mechanisms, and an independent report found that during its first ten years, the World Bank's management "made no systematic effort" to publicize in the borrowing countries the existence of the Inspection Panel. This has remained a challenge.⁸⁴

Risks of retaliation for accessing the World Bank Group's accountability mechanisms

In several instances, people who brought claims to the World Bank's Inspection Panel have faced retaliation. During the Mumbai Urban Transport Project in India, for example, the lead requester was imprisoned without bail on charges of extortion and traffic altercation shortly after the panel sent its critical report to the board. During the Chad-Cameroon pipeline project, the lead requester from Chad was tortured because of his opposition to the project.⁸⁵ The World Bank Group currently lacks safeguards to identify those situations in which the risk of retaliation is high and to help prevent it.



©JULIEN HARNEIS

**What are the
next steps?**



Ongoing board governance reforms and policy reviews provide opportunities and challenges for the World Bank Group to embed human rights in its policies and operations. As these reviews progress, we recommend that the World Bank Group adopt eight time-bound goals for integrating human rights into its operations (see Box 18). These goals will mainstream human rights risk management and improve human rights dialogue, helping the World Bank Group attain by 2015 what we have designated a “medium” level of integration.

GOAL 1: BEGIN AN OPEN DIALOGUE ON HUMAN RIGHTS AT THE WORLD BANK GROUP

WBG staff members can make only limited progress by themselves. Ultimately, human rights integration depends on the board’s willingness to discuss human rights issues more openly and to implement them more broadly. The changing balance of power on the board of directors—toward a more equitable representation

of countries—may provide an opportunity for countries to discuss human rights more frankly, without fear of “naming and shaming” by other board members. As this report contends, human rights integration can enhance risk management and development effectiveness in ways that are consistent with the WBG’s development mandate.

In June 2008, the UN Human Rights Council unanimously affirmed the UN Business and Human Rights Framework prepared by John Ruggie, the UN Secretary General’s Special Representative for Business and Human Rights.⁸⁶ This framework provides an opportunity for the WBG to adopt a shared vision of human rights. The Framework consists of three independent but complementary components: (1) the *State Duty to Protect* human rights from violations by third parties, including companies, as recognized under traditional human rights law, (2) the *Corporate Responsibility to Respect* human rights, that is, at a minimum, not to infringe on the rights of others, and

Box 18. NEXT STEPS FOR INTEGRATING HUMAN RIGHTS INTO THE WORLD BANK GROUP		
	TYPOLOGY OF INTEGRATION APPROACHES	STRATEGIC GOALS TO INTEGRATE HUMAN RIGHTS INTO THE WORLD BANK GROUP
LOW INTEGRATION		
Current Approaches	Implicit Work Development institution does not specifically work on human rights issues, although some activities may unintentionally promote human rights.	Already underway.
	Human Rights Projects and Programs Development institution has some human rights-focused projects or programs, but these do not affect the institution’s overall business model.	Already underway.
		
MEDIUM INTEGRATION		
Short-Term Goals (before 2015)	Mainstreaming Institution integrates “do no harm” steps into all aspects of its operations, in a manner consistent with the full range of international human rights norms.	1. Begin an open dialogue on human rights at the WBG. 2. Invest consistently with clients’ human rights obligations and responsibilities. 3. Improve assessments of human rights risks.
	Human Rights Dialogue Development institution and clients speak openly about human rights issues, risk management, and capacity building.	4. Integrate human rights standards into the WBG’s safeguard policies. 5. Limit the types of resettlement that the WBG will support. 6. Use the human rights framework to manage risks in fragile and conflict-affected countries. 7. Empower communities to use the WBG’s grievance mechanisms.
		
FULL INTEGRATION		
Medium-Term Goals (post 2015)	Human Rights-Based Approaches Human rights are an explicit part of the goals or mandate of the institution.	8. Adopt a comprehensive WBG human rights strategy.

Note: OECD, Integrating Human Rights into Development: Donor Approaches, Experience and Challenges (Paris: OECD, 2006), 35.

(3) *Access to Remedies*, both judicial and non-judicial, which help create accountability and provide redress when impacts on human rights are not avoided.⁸⁷ Many companies are using the UN Framework to shape their internal human rights policies, leading to a shift in industry-wide practices. For example, as the OECD revises its Guidelines for Multinational Enterprises, the business lobby—as well as the lobby groups for trade unions and NGOs—have advocated that the OECD adopt the UN Framework.⁸⁸

Once the board agrees, further integrating human rights into the WBG's operations will require clear signals from management that human rights are a priority. For example, President Zoellick could increase awareness of the human rights aspects of his six priority areas for his current term⁸⁹ and could encourage high-level participation in international conferences on the role of human rights in development and environment.

In a recent survey, WBG staff members indicated an overall desire to learn more about how human rights fit into their work.⁹⁰ The World Bank's website further acknowledges the need "to undertake analytic work to examine how human rights fit within the constitutional framework and what positive contribution they could make to the development process."⁹¹ To manage human rights risks successfully, WBG staff members first need to be well versed in concrete human rights risk management tools, with which the Nordic Fund can help (see Box 19).

GOAL 2: INVEST CONSISTENTLY WITH CLIENTS' HUMAN RIGHTS OBLIGATIONS AND RESPONSIBILITIES

The WBG may not have direct legal obligations under international human rights law, but its clients and shareholder governments do. Most countries have by their own initiative committed to implement human rights through national constitutions, laws, and policies.⁹² Accordingly, if there is a demand for these services, the World Bank could help countries fulfill these obligations as they relate to development. Recently, for example, the Colombian government asked the World Bank for funding to help implement the Voluntary Principles on Security and Human Rights, a non-binding set of principles that guide companies on the use of armed security forces.

At a minimum, the World Bank Group should not invest in activities that contravene a country's human rights obligations or a company's responsibility to respect

Box 19. RECOMMENDATIONS FOR THE NORDIC TRUST FUND

The newly operational Nordic Trust Fund is designed in part to build the World Bank Group's staff capacity and understanding of human rights and, to be most effective, should focus on concrete solutions to human rights issues. In 2010, the fund began work on six human rights-related pilot projects. Useful additional training activities might include developing guidelines or a course on human rights-based programming, akin to those developed by the UN Development Programme and the Business Leaders Initiative for Human Rights.^a WBG project managers might benefit from briefings on human rights issues related to the project, lists of human rights standards that apply within each host country, and reporting guidelines on how to address human rights issues in project appraisal reports.^b The fund could also publish an annual report on its activities and lessons learned, describing what internal shifts have occurred, how staff has integrated disaggregated data into their operations, how many staff members the fund has trained in human rights issues, and what new management systems are in place.

Notes:

- a. See UNDP, "Indicators for Human Rights Based Approaches"; UNDP, "Integrating Human Rights into Energy and Environment Programming: A Reference Paper" (New York: UNDP, 2005); Business Leaders Initiative for Human Rights, "A Guide for Integrating Human Rights into Business Management," available at <http://blihr.zingstudios.com/welcome>.
- b. IFC, "The Global Compact, and International Business Leaders Forum," in *Guide to Human Rights Impact Assessment and Management: Road-Testing Draft* (Washington, DC: IFC, June 2007), 52.

human rights. As we pointed out earlier, the World Bank's Inspection Panel found in at least one case that a Bank policy (OMS 2.20)—which requires the Bank to consider whether a proposed project is consistent with international agreements "on the country's environment and on the health and well-being of its people"—applies in some cases to international human rights commitments (see "Where are the gaps?" in this report). The World Bank should thus strengthen its clients' existing international commitments by integrating the Inspection Panel's findings broadly.

In its 2008 environmental and social policy, the European Bank for Reconstruction and Development went a step further by committing not to "knowingly finance projects that would contravene obligations under international treaties and agreements related to environmental protection, human rights and sustainable development as identified through project appraisal."⁹³ Including such a requirement in the World Bank's and the IFC's environmental and social policies would also help guide the WBG's operations. Indeed, the World Bank already has a similar policy for multilateral environmental agreements.⁹⁴

Companies that borrow from the IFC do not have direct obligations under public international law.⁹⁵ Nevertheless, emerging norms suggest that companies have an increasingly recognized “responsibility to respect” human rights, as described in the UN Framework on Business and Human Rights.⁹⁶ As the IFC provides financing and advisory services, it should at a minimum ensure that its activities do not contravene the UN Framework and also help satisfy its clients’ interest in meeting the Responsibility to Respect.

GOAL 3: IMPROVE ASSESSMENTS OF HUMAN RIGHTS RISKS

Managing risks depends on first identifying them. Many environmental and social impact assessments required or undertaken by the World Bank Group already address a wide range of human rights challenges. But a more systematic approach to identifying and understanding human rights risks would provide a more complete picture of the context in which a project will operate and also help minimize risks and maximize outcomes. The WBG’s clients should be required to assess human rights risks as part of their impact assessment process. For example, the WBG could require clients to consider such elements as the following:⁹⁷

- The host government’s human rights commitments under international and national law.
- Potential discrimination against, or disproportionate impacts on, minorities and marginalized groups.
- Whether conditions are in place for meaningful consultations, such as access to information, inclusiveness of minority groups, and freedom of communities to express opinions without retaliation.
- Availability of conflict resolution mechanisms for affected communities to seek redress.
- Legacies of past development projects and unsettled human rights claims that could affect the proposed investment.

GOAL 4: INTEGRATE HUMAN RIGHTS STANDARDS INTO THE WORLD BANK GROUP’S SAFEGUARD POLICIES

Several gaps remain between the WBG’s current policies and international human rights norms. The WBG should update its policies to reflect these norms, such as those adopted in the 2007 UN Declaration

on the Rights of Indigenous Peoples. It should also avoid creating new standards of its own that supersede international norms, such as the 2006 creation of “free, prior and informed consultation leading to broad community support” as an alternative to the stronger UN principle of “free, prior and informed consent” (see Box 20).⁹⁸ When the WBG’s standards are equivalent to international norms, the links to these norms should be explicit. The IFC, for example, currently refers to the International Labor Organization’s conventions in its Performance Standards.⁹⁹ Similar references to other human rights conventions would demonstrate to clients the basis for the Performance Standards.

Box 20: FREE, PRIOR, AND INFORMED CONSENT

In the past few years, the UN principle of free, prior, and informed consent (FPIC) has gained significant traction among indigenous peoples, companies, and civil society. FPIC provides a community with the opportunity to collectively grant or withhold its support for a proposed project, through a process that the community determines (such as a village consensus, election, or ratification of a negotiated agreement). FPIC is emerging as an effective method to prevent conflict, empower communities, and reduce the risks of development projects in poor areas. It can help:

- Identify and respect the human rights of indigenous peoples and vulnerable communities.
- Increase the legitimacy of a project in the eyes of local and international stakeholders.
- Reduce the risks of conflict and reputational damage for project proponents.

In 2007, the UN General Assembly adopted the Declaration on the Rights of Indigenous Peoples, which recognizes indigenous peoples’ right to FPIC for all development activities that affect them. While non-binding on government signatories, the declaration has led to greater acceptance of the principle. The implementation of FPIC remains a challenge, but many governments and companies are exploring ways to overcome these challenges. In 2008, the European Bank for Reconstruction and Development adopted an FPIC policy. In a 2010 report commissioned by Talisman Energy company, the law firm Foley Hoag weighed the benefits and challenges of implementing an FPIC policy, and concluded that Talisman’s business interests would benefit from an FPIC policy.^a As the WBG updates its environmental and social policies, it should commit not to proceed with investments that affect indigenous peoples, unless the WBG can verify that its clients obtained FPIC.

Note:

- a. Amy K. Lehr and Gare A. Smith, “Implementing a Corporate Free, Prior and Informed Consent Policy: Benefits and Challenges” (Washington, DC: Foley Hoag LLP, 2010).

As the IFC and the World Bank update their environmental and social policies, they will need to consider how to ensure that these remain effective as the nature of their portfolios changes. With the IFC's shift toward indirect finance through financial intermediaries, and the World Bank's expansion of development policy loans, the WBG's financing should not be allowed to fall outside its environmental and social policies. At a minimum, its clients should show that they have upheld their responsibility to respect human rights by demonstrating that they have internal human rights policies in place.

GOAL 5: LIMIT THE TYPES OF RESETTLEMENT THAT THE WORLD BANK GROUP WILL SUPPORT

The WBG should not support any activities that lead to involuntary resettlement, in order to avoid promoting development through force and coercion. In some cases, communities may voluntarily agree to displacement or resettlement. But even in such cases, large-scale resettlements have a poor track record of leaving communities better off. Therefore, the WBG should also not support activities that require voluntary resettlement above a certain scale. The limitations on "scale" should be based on a set of criteria rather than on an absolute number.

By developing and providing staff and clients with stronger tools and guidance to assess the options for project design, the WBG may be able to find alternatives to resettling populations, such as relocating a project rather than a community. In 1996, the World Bank's environment department documented the impacts of involuntary resettlement in WBG-financed projects and proposed an impoverishment risk model for assessing the impacts of displacement, including landlessness, joblessness, homelessness, marginalization, morbidity, food insecurity, loss of access to common property assets, and social disorganization.¹⁰⁰ Before investing in any projects that may displace people, the WBG should ensure that all options to avoid these risks have been exhausted.

GOAL 6: USE THE HUMAN RIGHTS FRAMEWORK TO MANAGE RISKS IN FRAGILE AND CONFLICT-AFFECTED COUNTRIES

According to a 2007 World Bank report, "Development interventions in fragile states are inherently risky: weak institutions undermine effectiveness and the high vulnerability to conflict increases the risks that gains made will be reversed. Engaging in very fragile environments can also create reputational and fiduciary risks for donor agencies which require careful mitigation."¹⁰¹

The WBG should not disregard a country because it is suffering from conflict or its government has abused human rights. If a country arrests and tortures political prisoners, for example, the World Bank and the IFC still can help support health or education in that country. Improving human rights standards can also create a more predictable business environment, which in turn can attract private investment to help pull the country out of a cycle of conflict. For example, former WBG general counsel Dañino wrote:

The Bank should avoid imposing a "double punishment" on the people of its member countries by withholding development assistance for those already disadvantaged by their countries' poor human rights records. . . . However, in egregious situations, where extensive violations of human rights reach pervasive proportions, the Bank should disengage if it can no longer achieve its purposes.¹⁰²

But the way that the WBG invests in these situations requires great care and would benefit from more consistent, human rights-centered guidance on how to do so. In particular, the World Bank and IFC should:¹⁰³

- Assess the potential human rights impacts of all investments in fragile and conflict-affected states.
- Avoid supporting any projects in areas of armed conflict unless an independent assessment determines that the project will not contribute to human rights violations.
- Determine whether investments in certain sectors or areas would contribute to human rights violations.
- Screen clients in conflict zones to assess their human rights records.
- Closely monitor the implementation of Bank policies.

GOAL 7: EMPOWER COMMUNITIES TO USE THE WORLD BANK GROUP'S GRIEVANCE MECHANISMS

Several World Bank Inspection Panel cases have revealed that opponents to development projects have faced retaliation, including imprisonment, intimidation, and even torture. When the threat of retaliation prevents communities from reporting harmful impacts to the WBG's grievance mechanisms, successful implementation of its development policies and projects may suffer. During the initial project appraisal, the WBG should carefully examine the host countries' freedom of speech and assembly, use of military forces, and other potential human rights concerns. Based on this assessment, the WBG could negotiate safer terms for affected communities, such as preventing the use of force in project design, monitoring and consultations, and opportunities for persons to provide confidential input. If the risks of retaliation are too great, the WBG may choose not to invest. To enable rapid, high-level intervention, the WBG should also consider establishing an emergency hotline for life-threatening situations that arise during a project.

Furthermore, both the IFC and the World Bank should require clients to disclose that a project has been financed with their funds. This should apply to all types of investments, whether the WBG invests directly in a project or indirectly through financial intermediaries, supply chains, or broader policy loans. The WBG should also require clients to disclose to affected communities the existence of its grievance mechanisms. This will help raise awareness among affected communities that the WBG's public financing creates higher standards of performance for the projects.

GOAL 8: ADOPT A HUMAN RIGHTS STRATEGY FOR THE ENTIRE WORLD BANK GROUP

Over time, as the WBG grows more comfortable with human rights, it would benefit from adopting a comprehensive human rights strategy, much as it has devised strategies for climate change, energy, and the environment. The WBG operates in a decentralized context, in which each operational team manages its own relationships with client governments and companies. An overarching human rights strategy could promote coherence among the World Bank's and the IFC's current human rights-related activities while respecting the WBG's goal to remain a client-driven institution. Such a strategy could direct budget and staff resources to many of the activities discussed earlier.

A human rights strategy could also guide the WBG staff on how to do business in countries with significant human rights risks, without "naming and shaming" specific governments. A country's poor human rights performance can impede the implementation of WBG projects, such as during the Chad-Cameroon pipeline project, when the Bank's consultations were conducted in the presence of security forces. Finally, a human rights strategy could help define explicit and measurable human rights goals for individual investments and country strategies.



Conclusion

The financial, food, water, and climate change crises have magnified the World Bank Group's influence on development. At the same time, the shifting balance of nations is leading to changes in the WBG's governance: the most powerful shareholders will soon be joined by China, India, Brazil, and other emerging economies. These changes may create new priorities for the WBG, but they do not have to be inconsistent with financing a robust human rights framework. In fact, a stronger approach to human rights can strengthen development outcomes and enhance the WBG's ability to respond to global crises, in a way that promotes rights and empowers the poor.

Human rights work is already an implicit part of many WBG operations. Of course, integrating human rights explicitly into WBG operations will take time. This report recommends several steps that can be taken in the short term. The most important next step is to grow comfortable with an open dialogue on human rights. The wide acceptance of the UN Framework on Business and Human Rights provides a helpful shared vision from which to begin this dialogue at the board and operational levels.

Over time, the World Bank Group could become a stronger adviser for clients who want to strengthen their own human rights performance. In doing so, the WBG can provide development assistance that more effectively raises individuals and communities out of poverty.



Annex: List of rights protected under the Universal Declaration of Human Rights

Many internationally recognized human rights are found in the Universal Declaration of Human Rights (1948), including:

- Life, liberty, and security of person
- Freedom from slavery and servitude
- Freedom from torture and cruel, inhuman, or degrading treatment or punishment
- Recognition as a person before the law
- Non-discrimination and equal protection of the law
- Access to effective remedies
- Freedom from arbitrary arrest, detention, or exile
- Full equality to a fair and public hearing
- Presumption of innocence until proved guilty
- Freedom from being found guilty for retroactive laws
- Non-interference with privacy, family, home, or correspondence
- Freedom from attacks on one's honor or reputation
- Freedom of movement and residence
- Freedom to leave any country, including one's own, and to return to one's country
- Freedom to seek asylum from persecution in other countries
- Right to have a nationality
- Freedom to marry and found a family
- Property ownership, alone as well as in association with others
- Freedom of thought, conscience, and religion
- Freedom of opinion and expression
- Freedom of peaceful assembly and association
- Participation in government
- Equal access to public service
- Government based on the will of the people, as expressed through periodic and genuine elections
- Access to social security
- Entitlement, in accordance with the organization and resources of each state, to the realization of economic, social, and cultural rights
- Work, free choice of employment, and just and favorable conditions of work
- Equal pay for equal work
- Just and favorable remuneration
- Freedom to form and join trade unions
- Rest and leisure from work
- Adequate standard of living, including food, clothing, housing, medical care, and necessary social services
- Security in the event of unemployment, sickness, disability, widowhood, and old age
- Special care and assistance for motherhood and childhood
- Right to an education
- Participation in the cultural life of the community
- Protection of intellectual property

NOTES

1. For more background on human rights risk management, see the section on “What does human rights integration look like?”
2. In this report, we define “human rights standards” as human rights that have been codified into national, regional, or international legal systems, or that have been integrated into the binding policies of organizations such as the World Bank Group.
3. Amartya Sen, *Development as Freedom* (New York: Anchor Books, 1998), 3–4: “Development requires the removal of major sources of unfreedoms: poverty as well as tyranny, poor economic opportunities as well as systematic social deprivation, neglect of public facilities as well as intolerance or overactivity of repressive states. Despite unprecedented increases in overall opulence, the contemporary world denies elementary freedoms to vast numbers—perhaps even the majority—of people. Sometimes the lack of substantive freedoms relates directly to economic poverty, which robs people of the freedom to satisfy hunger, or to achieve sufficient nutrition, or to obtain remedies for treatable illnesses, or the opportunity to be adequately clothed or sheltered, or to enjoy clean water or sanitary facilities. In other cases, the unfreedom links closely to the lack of public facilities and social care, such as the absence of epidemiological programs, or of organized arrangements for health care or educational facilities, or of effective institutions for the maintenance of local peace and order. In still other cases, the violation of freedom results directly from a denial of political and civil liberties by authoritarian regimes and from imposed restrictions on the freedom to participate in the social, political and economic life of the community.” See also OECD DAC (Development Assistance Committee), “DAC Action-Oriented Policy Paper on Human Rights and Development” (Paris: OECD, 2007); Mary Robinson, “What Rights Can Add to Good Development Practice,” in *Human Rights and Development: Towards Mutual Reinforcement*, ed. Philip Alston and Mary Robinson (New York: Oxford University Press, 2005).
4. By “human rights risks,” we refer to the risks to project viability that can result from the violation of human rights. See e.g., Jonathan Sohn, ed. (2007), *Development Without Consent: The Business Case for Community Consent* (Washington, DC: World Resources Institute), which identifies risks to businesses resulting from community opposition: financing, construction, operational, reputational, corporate, host government, and host country political risks.
5. See, e.g., Isham, Kaufmann, and Pritchett, “Civil Liberties, Democracy, and the Performance of Government Projects,” *World Bank Economic Review* (Oxford: Oxford University Press, 1997), vol. 11, no. 2, p. 234. This research found that the WBG’s investments in countries with the strongest civil liberties, such as freedom of speech and association, have an economic rate of return 8 to 22 percentage points higher than in countries with the weakest civil liberties.
6. Joseph Foti et al. (2008), *Voice and Choice: Opening the Door to Environmental Democracy* (Washington, DC: World Resources Institute), 23–25.
7. World Bank website, “The Nordic Trust Fund.” The website reports: “A recent survey revealed that overall, staff view human rights positively and think that they often deal with human-rights-related topics in their work, but have little knowledge about formal and institutional human rights frameworks and their role in the development process.”
8. Roberto Dañino, World Bank Group General Counsel, “Legal Opinion on Human Rights and the Work of the World Bank,” January 27, 2006, para. 5, quoting Ibrahim Shihata, *The World Bank Legal Papers* (The Hague: Kluwer Law International, 2000): “Although the Bank may, or even should, be able to elaborate on its mission and vision from time to time to meet the changing requirements of the world it serves, from a legal viewpoint, however, the Bank’s purposes, and consequently its legal capacity to act, must be based on the provisions of its constituent charter.”
9. See e.g., Smita Nakhoda (2008), *Correcting the World’s Greatest Market Failure: Climate Change and the Multilateral Development Banks* (Washington, DC: World Resources Institute).
10. Shaohua Chen and Martin Ravallion, *The Developing World Is Poorer Than We Thought, but No Less Successful in the Fight against Poverty* (Washington, DC: World Bank, 2008), table 5, p. 41.
11. World Bank Group, “Response to the Financial Crisis” (March 24, 2009), available at <http://www.worldbank.org/financialcrisis/pdf/WBGResponse-VFF.pdf> (using the \$2 per-day measurement of poverty).
12. World Bank website, “Fragile and Conflict-Affected Countries.”
13. Dañino, “Legal Opinion on Human Rights.”
14. World Bank, *Development and Human Rights: The Role of the World Bank* (Washington, DC: World Bank, 1998).
15. The principles of economic growth are central to the WBG’s mandate. See, e.g., Isham, Kaufmann, and Pritchett, 1997: 234, as well as other research led by Daniel Kaufmann at the World Bank Institute.
16. World Bank website, “Human Rights.”

17. See, e.g., Philip Alston (2005), "Ships Passing in the Night: The Current State of the Human Rights and Development Debate Seen through the Lens of the Millennium Development Goals," *Human Rights Quarterly* 27 (2005): 755; Philip Alston and Mary Robinson, eds., *Human Rights and Development: Towards Mutual Reinforcement* (New York: Oxford University Press, 2005); Mac Darrow, *Between Light and Shadow: The World Bank, the IMF and International Human Rights Law* (2003); Amartya Sen, "Human Rights and the Limits of Law," *Cardozo Law Review* 27 (2006): 2913, 2916–17.
18. See, e.g., Sen, *Development as Freedom*.
19. See the World Bank's three-book series: Deepa Narayan with Raj Patel, Kai Schafft, Anne Rademacher, Sarah Koch-Schulte, *Voices of the Poor: Can Anyone Hear Us?* (New York: World Bank and Oxford University Press, 2000); Deepa Narayan, Robert Chambers, Meera Kaul Shah, and Patti Petesch, *Voices of the Poor: Crying Out for Change* (New York: World Bank and Oxford University Press, 2000); and Deepa Narayan and Patti Petesch, *Voices of the Poor: From Many Lands* (New York: World Bank and Oxford University Press, 2002).
20. World Bank website, "Challenge."
21. Polly Vizard, *The Contributions of Professor Amartya Sen in the Field of Human Rights* (London: Centre for Analysis of Social Exclusion, 2005).
22. OHCHR, "Frequently Asked Questions," 10; Sen, *Development as Freedom*.
23. Sen wrote, "Focusing on human freedoms contrasts with narrower views of development, such as identifying development with the growth of gross national product, or with the rise in personal income, or with industrialization, or with technological advance, or with social modernization" (*Development as Freedom*, 3). In September 2009, the UK government's Lord Stern indicated that because of climate change, rich nations will need to reconsider making growth the goal of their societies. See Jonathan Watts, "Stern: Rich Nations Will Have to Forget about Growth to Stop Climate Change," *The Guardian*, September 11, 2009. See also, Gary W. Reinbold, "Human Rights Reasons for Preferring Individual Measures of Inequality to Aggregate Measures" (Cambridge, MA: Carr Center for Human Rights Policy, Harvard University, 2008).
24. See, e.g., UN Special Representative to the Secretary General on Business and Human Rights, Consultation website, http://www.srsconsultation.org/index.php/main/discussion?discussion_id=3.
25. See, e.g., IFC (International Finance Corporation), "Report to the World Bank Group Committee on Development Effectiveness, IFC's Policy and Performance Standards on Social and Environmental Sustainability and Policy on Disclosure of Information: Report on the First Three Years of Application" (Washington, DC: IFC, July 2009), v: "Implementation experience also suggests that the degree of disclosure, documented evidence of community engagement, and quality of information disclosed varies across IFC's clients"; and para. 33: "Experience gained during the first three years of implementation suggests that some clarification to Performance Standard 1 (Social and Environmental Assessment and Management System) are warranted, including clearer definitions of the environmental and social management plan, program, and system. These three concepts are sometimes misunderstood by clients."
26. The Danish Institute for Human Rights, for example, is developing its comprehensive Human Rights and Business Country Risk Portal, describing human rights risks to businesses in specific countries. Some WBG research has also attempted to establish this empirical base. See, e.g., Isham, Kaufmann, and Pritchett, "Civil Liberties"; see also Daniel Kaufmann, "Human Rights and Governance: The Empirical Challenge," in *Human Rights and Development: Towards Mutual Reinforcement*, ed. Philip Alston and Mary Robinson (New York: Oxford University Press, 2005). Similar research by Robert Barro demonstrates that substantial violations of civil and political liberties are linked to lower economic growth. See World Bank website, "Human Rights;" Robert Barro, *Determinants of Economic Growth: A Cross-Country Empirical Study* (Cambridge, MA: MIT Press, 1997); R. Barro, "Economic Growth in a Cross Section of Countries," *Quarterly Journal of Economics*, 106, no. 2 (1991): 407.
27. See OECD DAC, "DAC Action-Oriented Policy Paper"; Kenneth Roth, "Operationalizing Human Rights: The Challenge for Development Organizations," *Development Outreach* 8, no. 2 (2006); UNHCHR, "Frequently Asked Questions," 9.
28. Ashutosh Varshney, "Democracy and Poverty," paper for the Conference on World Development Report 2000, organized by the UK Department for International Development & Institute of Development Studies, Sussex, Caste Donnington, England, August 15–16, 1999, cited in John Ackerman, "Social Accountability in the Public Sector: A Conceptual Discussion," *Social Development Department Paper* 82 (Washington, DC: World Bank, 2005), 3.
29. UN Commission on Legal Empowerment of the Poor (2008), *Making the Law Work for Everyone* (New York: UN Commission on Legal Empowerment of the Poor and the UN Development Programme), 48–49.
30. WBG, *Comprehensive Development Framework*, 1999.
31. See the World Bank's three book series on *Voices of the Poor*, vol. 1, *Can Anyone Hear Us? 7*: "Our study brings to the foreground four other dimensions that feature prominently in poor people's definitions of poverty: First, poor people lack access to basic infrastructure, rural roads, transportation, and water. Second, poverty has important psychological dimensions such as powerlessness, voicelessness, dependency, shame, and humiliation. The maintenance of cultural identity and social norms of solidarity helps poor people to continue to believe in their own humanity despite inhuman conditions. Third, while there is a widespread thirst for literacy, schooling receives little mention or mixed reviews. Poor people realize education offers an escape from poverty—if the economic environment in the society at large and the quality of education improves, however poor health, and illness is dreaded everywhere as a source of destitution. Finally, poor people rarely speak of income but focus instead on managing assets—physical, human, social, and environmental—as a way to cope with their vulnerability, which in many areas takes on gendered dimensions."
32. Ana Palacio, "Legal Empowerment of the Poor: An Action Agenda for the World Bank" (Washington, DC: World Bank, 2005, revised March 2006); WBG President Wolfowitz, "Charting the Way Ahead—The Results Agenda," remarks at the 2005 WBG annual meeting, Washington, DC, September 24, 2005.

33. World Bank, "World Development Report 2006: Equity and Development," available at <http://web.worldbank.org> > Data & Research > Research > WDRs.
34. Rachel Kyte, foreword to *Guide to Human Rights Impact Assessment and Management: Road-Testing Draft* (Washington, DC: IFC, 2007), vii.
35. Dana Clark, "The World Bank and Human Rights: The Need for Greater Accountability," *Harvard Human Rights Journal*, no. 15 (spring 2002): 210–11, available at <http://www.law.harvard.edu/students/orgs/hrj/iss15/clark.shtml>.
36. Bank Information Center, "Chad-Cameroon Oil Pipeline," available at <http://www.bicusa.org/en/Project.26.aspx>.
37. BalkanInsight.com, "World Bank Halts Controversial Albania Project" (February 2, 2009), available at <http://www.balkaninsight.com/en/main/news/16383>; World Bank Inspection Panel, "Investigation Report: Albania: Integrated Coastal Zone Management and Clean-Up Project" (IDA Credit No. 4083-ALB), Rpt. No. 46596-AL (November 24, 2008).
38. CNN.com, "Honduran Military Prevents Ousted Leader's Landing; Clash Kills 1," July 6, 2009.
39. Greenpeace, "Slaughtering the Amazon," June 1, 2009.
40. The announcement came in a letter to Forest Peoples Programme and NGOs. See also Reuters, "World Bank's IFC Suspends Palm Oil Investments," September 9, 2009.
41. Genoveva Hernández Uriz, "The Application of the World Bank Standards to the Oil Industry: Can the World Bank Group Promote Corporate Responsibility?" *Brooklyn Law Journal* 28, no. 1 (2001): 72.
42. UNDP (United Nations Development Programme), "Human Development Report," 2000, p. 1.
43. Isham, Kaufmann, and Pritchett, "Civil Liberties," 234.
44. See, e.g., OHCHR, "Frequently Asked Questions"; see also Danish Institute for Human Rights, Human Rights and Business Country Risk Portal, and its Comprehensive Assessment tool.
45. Some of these include Rabobank Group, "Codes and Guidelines," available at http://www.rabobank.com/content/about_us/corporate_social_responsibility/vision_and_mission/Codes_and_guidelines.jsp; Citi, "Statement on Human Rights" (June 2008), available at <http://www.citibank.com/citi/citizen/humanrights/index.htm>; ANZ, "Human Rights Statement," available at <http://www.anz.com>; Barclays, "Human Rights," available at <http://group.barclays.com/Sustainability/Responsible-global-citizenship/Human-rights>. Donor agencies also have created policies.
46. OHCHR, "Frequently Asked Questions"; OHCHR website, "International Human Rights Law," <http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx>.
47. In particular, companies assume a responsibility not to infringe on the rights of others. Governments assume an obligation not to infringe on the rights of others, and to take steps to protect people from third parties.
48. Civil society submission to IFC, "Proposals for Embedding Human Rights Principles and Requirements into IFC's Policy on Social and Environmental Sustainability and Performance Standards" (December 2004).
49. OECD, *Integrating Human Rights into Development: Donor Approaches, Experience and Challenges* (Paris: OECD, 2006).
50. World Bank Annual Report FY 2009. Our research included a review of WBG reports as well as conversations with WBG staff.
51. World Bank website, "Human Rights."
52. World Bank, Development Outreach, October 2006.
53. See the Nordic Trust Fund website, available at <http://www.worldbank.org>. The fund was established with contributions from Denmark, Iceland, Norway, Finland, and Sweden.
54. Alf Morten Jerve, "Social Consequences of Development in a Human Rights Perspective: Lessons from the World Bank," in *Human Rights in Development Yearbook: Global Perspectives and Local Issues*, ed. Hugo Stokke and Arne Tostenson (The Hague: Kluwer Law International, and Oslo: Nordic Human Rights Publications, 1998), 37.
55. Until 1993, the IFC tended to focus on medium-sized projects. In 1993, IFC financed its first "megaproject," the 450 MW Pangué Dam on Chile's BioBio River. In 1996, Pehuenche indigenous communities alleged that the project violated the World Bank's indigenous peoples policy, which IFC claimed did not apply to its operations. President Wolfensohn therefore engaged a high-level independent commission led by the IUCN president Dr. Jay Hair, which confirmed many of the allegations. The IFC chose not to make the 1997 Hair report publicly available, rejecting its primary finding that the project violated several applicable World Bank Group policies and procedures. However, the IFC created the Office of the Compliance Advisor / Ombudsman (the "CAO," similar to the World Bank's Inspection Panel). The CAO accepted the complaint in 2002 and in 2003 agreed with the Hair report's findings of noncompliance. The IFC withdrew from the Pehuenche Dam and began developing its own set of Performance Standards to govern its operations.
56. For example, the IFC's Performance Standards have been adopted into the Equator Principles for private banks, the OECD's common approaches for export credit agencies, and the Rome Consensus for the European Development's financial institutions.
57. IFC Performance Standard 2 (Labor and Working Conditions), para. 2, provides: "The requirements set out in this Performance Standard have been in part guided by a number of international conventions negotiated through the International Labour Organization (ILO) and the United Nations (UN)." The Performance Standards also adopt several international environmental standards and conventions. In 2009, the IFC began to cooperate with the ILO to improve labor standards in global supply chains.
58. World Bank Inspection Panel, available at <http://www.inspectionpanel.org>.
59. Steve Herz and Anne Perrault, "Bringing Human Rights Claims to the World Bank Inspection Panel" (Center for International Environmental Law, Bank Information Center, and International Accountability Project, October 2009).
60. In particular, the panel considered whether the human rights situation in Chad affected compliance with the World Bank's policies on informed and open consultation. See World Bank Inspection Panel Report, "Chad: Petroleum Development and Pipeline Project" (2002); World Bank Inspection Panel, "Accountability at the World Bank: The Inspection Panel at 15 Years" (Washington, DC: World Bank, 2009); Herz and Perrault, "Bringing Human Rights Claims."
61. This case is discussed in more detail in "Where are the gaps?" section of this report. See also World Bank Inspection Panel, Honduras report (2007).

62. IFC CAO Operational Guidelines, available at <http://www.cao-ombudsman.org/howwework/ombudsman/documents/EnglishCAOGuidelines06.08.07Web.pdf>.
63. IFC CAO Advisory Report, "Extracting Sustainable Advantage? A Review of How Sustainability Issues Have Been Dealt with in Recent IFC & MIGA Extractive Industries Projects" (2003), 36. Note that this report preceded the adoption of the 2006 IFC Performance Standards.
64. Both the World Bank's Articles of Agreement and the IFC's Articles of Agreement use similar language regarding noninterference in political affairs.
65. Siobhán McInerney-Lankford, "Human Rights and Development: a Comment on Challenges and Opportunities from a Legal Perspective," *Journal of Human Rights Practice*, March 2009, 55; Robert T. Coulter, Leonard A. Crippa, and Emily Wann, "Principles of International Law for Multilateral Development Banks" (Washington, DC: Indian Law Resource Center, January 2009), 2.
66. Galit A. Sarfaty, "Why Culture Matters in International Institutions: The Marginality of Human Rights at the World Bank," *American Journal of International Law* 103 (October 2009): 663, citing Roberto Dañino's legal opinion: "The Articles of Agreement permit and in some cases require, the Bank to recognize the human rights dimensions of its development policies and activities since it is now evident that human rights are an intrinsic part of the Bank's mission. . . . [I]n egregious situations, where extensive violations of human rights reach pervasive proportions, the Bank should disengage if it can no longer achieve its purposes."
67. Palacio, "Legal Empowerment of the Poor," 36.
68. McInerney-Lankford, "Human Rights and Development," 56. The WBG's former president, James Wolfensohn, explained, "To some of our shareholders the very mention of the words human rights is inflammatory language. It's getting into areas of politics, and into areas about which they are very concerned. We decided just to go around it and we talk the language of economics and social development." See James D. Wolfensohn, "Some Reflections on Human Rights and Development," in *Human Rights and Development: Towards Mutual Reinforcement*, ed. Philip Alston and Mary Robinson (New York: Oxford University Press, 2005), 21.
69. Sarfaty, "Why Culture Matters in International Institutions."
70. *Ibid.*
71. Former general counsel Shihata explained: "[The Articles] require the Bank to act prudently both in its borrowing and lending operations and to pay due regard to the prospects that the borrower (and the guarantor, if any) will be able to meet their obligations. These requirements could hardly be met if the Bank were deprived of the ability to take into account the degree of political stability in the countries where it operates, or if it were to lend in situations where, due, for instance, to military occupation or civil strife, the staff would be unable to appraise the project, supervise its implementation or evaluate its performance" (Dañino, "Legal Opinion on Human Rights," para. 11, quoting Shihata).
72. World Bank website, "The Nordic Trust Fund."
73. Steven Herz et al., "The International Finance Corporation's Performance Standards and the Equator Principles: Respecting Human Rights and Remediating Violations?" (Washington, DC: Center for International Environmental Law, Bank Information Center, BankTrack, Oxfam Australia, and World Resources Institute, August 2008).
74. World Bank Operational Manual Statement (OMS) 2.20 requires that a "project's possible effects on the country's environment and on the health and well-being of its people must be considered at an early stage. . . . Should international agreements exist that are applicable to the project and area, such as those involving the use of international waters, the Bank should be satisfied that the project plan is consistent with the terms of the agreements." See also Herz and Perrault, "Bringing Human Rights Claims."
75. The Inspection Panel found that the bank, as required by OMS 2.20, "did not adequately consider whether the proposed Project plan and its implementation would be consistent with ILO Convention No. 169." See Inspection Panel, Honduras report; Inspection Panel, "Accountability at the World Bank: The Inspection Panel at 15 Years."
76. The World Bank Legal Department disagreed, arguing that another operational policy, OP 4.01, superseded OMS 2.20. Operational policy 4.01 focuses only on compliance with environmental treaties and agreements. See Inspection Panel, Honduras report; Inspection Panel "Accountability at the World Bank: The Inspection Panel at 15 Years."
77. These include ILO Conventions 29, 87, 98, 100, 111, 105, 138, and 182, and the UN Convention on the Rights of the Child.
78. For example, the World Bank supported, but eventually withdrew from, the China Western Poverty Reduction Project, which involved resettling 58,000 Chinese farmers into an area traditionally occupied by Tibetan and Mongol herders. See Clark, "The World Bank and Human Rights," n. 13.
79. Ibrahim F. I. Shihata, "Legal Aspects of Involuntary Population Displacement," in *Anthropological Approaches to Involuntary Resettlement: Policy, Practice, and Theory*, ed. Michael M. Cernea and Scott E. Guggenheim (1993); World Commission on Dams, "Dams and Development: A New Framework for Decision-Making" (2000), available at <http://www.dams.org/report>; Clark, "The World Bank and Human Rights," p. 206, n. 25; World Bank Environment Department review 1996.
80. Robert Goodland, "The Institutionalized Use of Force in Economic Development: With Special Reference to the World Bank," in *Sustaining Life on Earth*, ed. Colin L. Soskolne (Lexington Books, 2008), available at <http://www.goodlandrobert.com/violence.pdf>.
81. Clark, "The World Bank and Human Rights," 212; Korinna Horta, "Rhetoric and Reality: Human Rights and the World Bank," *Harvard Human Rights Journal*, no. 15 (spring 2002): 237, available at <http://www.law.harvard.edu/students/orgs/hrj/iss15/horta.shtml>; World Bank Environment Department review 1996; Korinna Horta, "Rights and Development: What Progress at the World's Largest Aid Agency?" in *Disrespect Today, Conflict Tomorrow: The Politics of Economic, Social and Cultural Rights*, ed. David Fraser and Graca Almeida Rodrigues (UK: CCC Press, 2009).
82. See research and resources on the International Accountability Project website, <http://www.accountabilityproject.org>.

83. Almost 40 percent of the IFC's portfolio consists of lending to financial intermediaries, which in turn lend to project developers. IFC, "Financial Intermediaries," available at http://www.ifc.org/ifcext/about.nsf/Content/Financial_Intermediaries. See also IFC, "Report to the World Bank Group Committee on Development Effectiveness, IFC's Policy and Performance Standards on Social and Environmental Sustainability and Policy on Disclosure of Information: Report on the First Three Years of Application" (July 2009). The IFC also participates in trade finance and asset management. Similarly, in FY2008-2009, more than half of the World Bank's lending went to development policy operations (general payments to state budgets that do not identify specific projects), to which less rigorous environmental and social standards apply. See Bank Information Center, "DPLs Now over Half of World Bank Lending: Gaping Hole in Transparency and Accountability" (November 2009), available at <http://www.bicusa.org/en/Article.11612.aspx>. Furthermore, in response to the financial crisis, the World Bank lent more than \$12 billion to countries through development policy loans. See World Bank Group, "Response to the Financial Crisis" (March 24, 2009), para. 4. In these investments, the World Bank and the IFC are less able to monitor use of funds that clients might disburse across several different projects.
84. World Bank Inspection Panel, "Accountability at the World Bank: The Inspection Panel at 15 Years," 48.
85. *Ibid.*, 49–50.
86. The UN Human Rights Council appointed Professor Ruggie in 2005 and renewed his mandate in 2008 for a three-year term. Professor Ruggie's framework received broad support. The member states of the UN Human Rights Council also unanimously welcomed the report, which is a rare occurrence. See Business & Human Rights Resource Centre, available at <http://www.business-humanrights.org/SpecialRepPortal/Home/ReportstoUNHumanRightsCouncil/2008>; UN Human Rights Council, "Business and Human Rights: Towards Operationalizing the 'Protect, Respect and Remedy' Framework," UN Doc. A/HRC/11/13, 22 April 2009.
87. Ruggie, "Protect, Respect and Remedy," para. 9.
88. The three lobby groups are the Business and Industry Advisory Committee to the OECD (BIAC), Trade Union Advisory Committee to the OECD (TUAC), and OECD Watch (an NGO network).
89. Zoellick's six priority areas are promoting growth in the poorest countries; helping postconflict and fragile states; offering more sophisticated services to middle-income countries; playing a more active role on global public-good issues such as climate change; fostering development in the Arab world; and delivering knowledge and learning.
90. World Bank website, "Human Rights."
91. *Ibid.*
92. "Human rights treaty obligations have the benefit of being bounded and voluntarily acceded to, with the specific parameters of states' obligations carefully negotiated, and circumscribed through reservation and derogation. In this context, the fact that human rights treaties, like all international treaties, are based on the consent of states is highly relevant since it challenges the assumption that in development their 'application' amounts to 'imposition.' This approach avails of the natural limits of the treaty undertakings, thereby securing a clarity and legitimacy that approaches based on principles and values or even general principles of international law may not avail of easily" (McInerney-Lankford, "Human Rights and Development," 68).
93. European Bank for Reconstruction and Development, *Environmental and Social Policy* (2008), para. 9; see also McInerney-Lankford, "Human Rights and Development," 66.
94. World Bank operational policy 4.01, "Environmental Assessment," para. 3.
95. Even if companies do not have direct obligations under international law, they may have indirect human rights obligations. Some borrowers from the IFC are companies that have government shareholders. Other companies borrowing from the IFC participate in public-private partnerships. In many cases, companies are also required under domestic laws to respect human rights.
96. John Ruggie, "Protect, Respect and Remedy: A Framework for Business and Human Rights," report of the Secretary-General's Special Representative on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, April 7, 2008.
97. IFC, "The Global Compact, and International Business Leaders Forum," in *Guide to Human Rights Impact Assessment and Management: Road-Testing Draft* (Washington, DC: IFC, June 2007), 16–18, 20, 32; William J. David and Robert T. Coulter, *Indian Law Resource Center, "Comments and Recommendations on The IFC Guide to Human Rights Impact Assessment and Management, Road-Testing Draft,"* June 2008; see also UNDP, "Indicators for Human Rights Based Approaches," 6.
98. In 2004, an independent review of the World Bank's extractive industries portfolio recommended that the bank incorporate the "free, prior and informed consent" (FPIC) principle into its policies. However, the bank's board of directors expressed concern on the grounds that it might give individuals a veto power over projects that are otherwise in the broader public interest (in fact, FPIC is based on collective, rather than individual, decision making). As a compromise, the World Bank Group created a two-part standard of "free, prior and informed consultation" with affected communities, leading to "broad community support." This two-part standard was made part of the World Bank's indigenous peoples policy in 2005 and the IFC's Policy on Social & Environmental Sustainability in 2006. Private financial institutions subsequently incorporated the first part of the standard, "free, prior and informed consultation," into the Equator Principles, and others have adopted this strategy. See Kirk Herbertson et al., (Washington, DC: World Resources Institute, 2009), 23.

99. IFC Performance Standard 2, n. 1, references the following International Labor Organization (ILO) conventions: ILO Convention 87 on Freedom of Association and Protection of the Right to Organize; ILO Convention 98 on the Right to Organize and Collective Bargaining; ILO Convention 29 on Forced Labor; ILO Convention 105 on the Abolition of Forced Labor; ILO Convention 138 on Minimum Age (of Employment); ILO Convention 182 on the Worst Forms of Child Labor; ILO Convention 100 on Equal Remuneration; ILO Convention 111 on Discrimination (Employment and Occupation); and UN Convention on the Rights of the Child, art. 32.1.
100. World Bank Environment Department review 1996, p. 115.
101. World Bank / International Development Association, "Operational Approaches and Financing in Fragile States" (2007), para. 12, available at <http://siteresources.worldbank.org/IDA/Resources/IDA15FragileStates.pdf>.
102. Dañino, "Legal Opinion on Human Rights," para. 22.
103. See Civil society submission to IFC, March 11, 2010; see also Civil society submission to IFC, December 2004.

ABOUT THE AUTHORS

Kirk Herbertson is an Associate in WRI's Institutions and Governance Program, kherbertson@wri.org.

Kim Thompson is a consultant with WRI, KimberlyThompson@alumni.lse.ac.uk.

Robert Goodland is a Senior Fellow at WRI, rbtgoodland@gmail.com. Dr. Goodland worked at the World Bank from 1978 to 2001, where he led the development of many of the first environmental and social safeguard policies.

ABOUT WRI

The World Resources Institute (WRI) is an environmental think tank that goes beyond research to create practical ways to protect the Earth and improve people's lives. Our mission is to move human society to live in ways that protect the Earth's environment for current and future generations. Our programs meet global challenges by using knowledge to catalyze public and private action.

- To reverse damage to ecosystems. We protect the capacity of ecosystems to sustain life and prosperity.
- To expand participation in environmental decisions. We collaborate with partners worldwide to increase people's access to information and influence over decisions about natural resources.
- To avert dangerous climate change. We promote public and private action to ensure a safe climate and a sound world economy.
- To increase prosperity while improving the environment. We challenge the private sector to grow by improving environmental and community well-being.

In all its policy research, and work with institutions, WRI tries to build bridges between ideas and actions, meshing the insights of scientific research, economic and institutional analyses, and practical experience with the need for open and participatory decision making.



WORLD
RESOURCES
INSTITUTE

10 G Street, NE
Suite 800
Washington, DC 20002
www.wri.org

ISBN: 978-1-56973-745-3