



Chapitre de livre

2007

Published version

Open Access

This is the published version of the publication, made available in accordance with the publisher's policy.

The Bretton Woods Institutions and Human Rights : Converging Tendencies

Boisson de Chazournes, Laurence

How to cite

BOISSON DE CHAZOURNES, Laurence. The Bretton Woods Institutions and Human Rights : Converging Tendencies. In: Economic Globalisation and Human Rights. W. Benedek, K. De Feyter and F. Marrella (Dir.) (Ed.). Oxford : Oxford University Press, 2007. p. 210–242.

This publication URL: <https://archive-ouverte.unige.ch/unige:8316>

The Bretton Woods Institutions and Human Rights: Converging Tendencies

LAURENCE BOISSON DE CHAZOURNES

Introduction

In the early 1940s, planning for the creation of post-war institutions began, with a vision for the creation of three different international economic and financial organisations; the United States was particularly adamant in its belief that the international economy should be at the center of the new world order. At the time, these future institutions were supposed to be the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (IBRD), and the International Trade Organization (ITO). This last one was never created, although the few foundations which were laid gradually evolved with the progressive institutionalisation of the GATT and, ultimately, the creation of the World Trade Organization (WTO) in 1994.¹ The IMF and the IBRD, known as the 'Bretton Woods' institutions (named after the resort at which the constitutive agreements were negotiated), officially began functioning in 1946.²

Parallel to the creation of these institutions, the adoption of the UN Charter in 1945, and of the Universal Declaration of Human Rights (UDHR) in 1948 by the UN General Assembly, were instrumental in bringing about another change in international relations.³ Human rights became a matter of international concern, and they constituted one of the

¹ Marrakech Agreement Establishing the World Trade Organization, 15 April 1994, 33 *ILM* 1144, (1994).

² Articles of Agreement of the International Monetary Fund, 22 July 1944, as amended on November 11, 1992, 2 *UNTS* 39; Articles of Agreement of the International Bank for Reconstruction and Development, 27 December 1945, as amended on 16 February 1989, 2 *UNTS* 134.

³ UDHR, adopted by the UN General Assembly, resolution 217 A (III), 10 December 1948, U.N. Doc A/810.

four purposes of the UN;⁴ specific bodies and mechanisms were set up within the UN aiming at their promotion. Since then, human rights have developed tremendously, making these issues, once thought to be part of a state's *domaine reserve*, to be one of the most important concerns of the UN system, as well as of the international legal order.

Over the years, alongside these international developments, the effects of economic liberalisation on human rights issues has raised questions, initiating the relationship of the Bretton Woods institutions with human rights, a relationship which began reluctantly but has become, progressively, an alliance.⁵ Although human rights have not yet become an issue in their own right on the agenda of the Bretton Woods institutions, they have nonetheless started to find a place.⁶

When dealing with the relationship of Bretton Woods institutions and human rights, one has to bear in mind that the former are international organisations, i.e. subjects of international law with a specific legal standing in the international legal order.⁷ In order to ascertain the place and the role of human rights within the framework of the activities of these institutions, this issue will first be assessed in the context of the mandates of these institutions as laid down in their constitutive instruments and developed through subsequent practice. Second, an analysis of the operational and policy means which are at their disposal will be made.

⁴ Art. 1 of the UN Charter: 'The Purposes of the United Nations are: . . . (3) To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion'.

⁵ See R. Dañino, 'The Legal Aspects of the World Bank's Work on Human Rights: Some Preliminary Thoughts', in P. Alston and M. Robinson (eds.), *Human Rights and Development. Towards Mutual Reinforcement* (Oxford: Oxford University Press, 2005), p. 509.

⁶ For an assessment, see: *Development and Human Rights: The Role of the World Bank*, 1998. The interview with the Senior Advisor to World Bank Managing Director Mamphela Ramphele in the occasion of the Human Rights Day of 2003, is available at <http://www.un.org/esa/coordination/ecosoc/hl2002/wb.pdf> (accessed: 9 February 2006). With regard to the IMF, see: S. Pereira Leite, 'Human Rights and the IMF', *Finance and Development. A Quarterly Magazine of the IMF* 38 (2001), available at <http://www.imf.org/external/pubs/ft/fandd/2001/12/leite.htm> (accessed: 9 February 2006).

⁷ A recent judgment of the European Court of First Instance illustrates the controversy which raises the topic of the capacities of international institutions and their relations to international law. Judgment of the Court of First Instance, *Yassin Abdullah Kadi v. Council of the European Union and Commission of the European Communities*, Case T-315/01, 21 September 2005, available at <http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:62001A0315:EN:HTML> (accessed: 9 February 2006).

The mandate of the Bretton Woods institutions and the promotion of human rights

The purposes and the capacities of international organisations such as the World Bank⁸ and the IMF, are defined by their constitutive agreements. Apart from concerns related to fair conditions of work and full employment, the constitutive agreements of these institutions give almost no place to issues other than economics. The objectives of the IBRD encompass the promotion of 'long-range balanced growth of international trade and the maintenance of equilibrium in balances of payments by encouraging international investment for the development of the productive resources of members, thereby assisting in raising productivity, the standard of living and conditions of labour in their territories'.⁹ The objectives of the IMF include 'to facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy'.¹⁰

The IMF was to achieve its objectives by providing financial assistance to its members in order to enable them to correct disequilibriums in their balance of payments, while the IBRD was to promote reconstruction and development. Issues of human rights could, therefore, at the time of their creation, readily have been perceived as falling within their mandate and activities.¹¹ Reconstruction of the European economies was the foremost objective, whilst development started to become an objective of its own in

⁸ The 'World Bank group' is made of five institutions: the International Bank for Reconstruction and Development (IBRD), established in 1944; the International Finance Corporation (IFC) and the International Development Association (IDA), respectively established in 1956 (IFC Articles of Agreement entered into force on 20 July 1956 as amended on 28 April 1993, 264 UNTS 117), and in 1960 (IDA Articles of Agreement entered into force on 24 September 1960, 6333 UNTS 439); the International Center for the Settlement of Investment-related Disputes (ICSID) set up in 1965 by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the 'Washington Convention') entered into force on 14 October 1966, 575 UNTS 159 and the Multilateral Investment Guarantee Agency (MIGA), set up by the 1985 Convention Establishing the Multilateral Investment Guarantee Agency ('Seoul Convention') entered into force on 12 April 1988, 1508 UNTS 99 respectively. In the context of this chapter, the reference to the World Bank covers the IBRD and IDA since its creation in 1960.

⁹ Art. 1(iii) of the Articles of Agreement of the IBRD.

¹⁰ Art. 1(ii) of the Articles of Agreement of the IMF.

¹¹ See fn. 4 for the UN Charter's perspective in its Art. 1(3); it was negotiated during the same period.

the early 1950s. In the years which followed the establishment of the Bretton Woods institutions, the Cold War ideology dominated their functioning. The IMF and the World Bank became beacons for the 'free world' within the bipolar international politics of the Cold War, and this ideological divide was to persist for the next forty years. The history of these institutions is indelibly marked by this ideology, as free trade and the market economy came to be used by the Western countries as symbols,¹² an identity reflected by the Bretton Woods institutions, which operated in isolation from the majority of the Eastern bloc countries¹³ until the fall of the Berlin Wall in 1989. Communist countries were not to become members of these organisations, although the notable exception to this rule was the People's Republic of China, which was welcomed into the fold of the Bretton Woods club with great ceremony in the early 1980s.

As previously said, during the first decades of its existence, the activities of the World Bank focused on specific projects, the purpose of which was the reconstruction of the infrastructures that suffered damage in World War II; it then turned to developmental activities, again with a similar focus on infrastructures, such as hydroelectric works.¹⁴ This development-oriented approach was intended to achieve economic success, and other considerations were marginalised. Over time, the failure of some of the initiatives undertaken by the Bretton Woods institutions, the lessons learnt as well as the political change which occurred in the early 1990s, opened the window for a broader vision of development, and their activities consequently became more multidimensional and more centred on the individual.

Predominance of economic considerations in the decision-making process: limitations and evolution

The founders of the IBRD included a clause within the Bank's Articles of Agreement stating that only economic considerations were to be relevant

¹² For some Western states, liberalism was to become the predominant societal value. See J. G. Ruggie, 'International Regimes, Transactions and Change: Embedded Liberalism in the Postwar Economic Order', *International Organization* 36 (1982) 2, 379–415.

¹³ While the USSR did participate at the Bretton Woods Conference, it did not ratify the agreements that were subsequently adopted. Poland left the IMF in 1950 and Czechoslovakia was excluded from the organisation in 1954. Of the former Eastern Bloc, the only country which has enjoyed uninterrupted membership of the IMF and the World Bank since their foundation in 1945 is the Former Republic of Yugoslavia, followed by Romania which became a member in 1972.

¹⁴ See A. Rigo Sureda, 'The Law Applicable to the Activities of International Development Banks', *Recueil des Cours* 308 (2004), 29–31.

to its decision-making.¹⁵ Whilst the Articles of Agreement of the IMF do not contain any similar provision, the organisation also excluded any questions not of an economic or financial nature from its decision-making processes;¹⁶ this requirement of not taking into account non-economic considerations has often raised ambiguities as to its interpretation.

The attempt of the Bretton Woods institutions to take political issues outside their mandate was motivated by several preoccupations, including the fear that their assistance could be used as a political means against member States, instead of using assistance for reconstruction and development purposes. In this manner, the assistance given by the World Bank and IMF could become a tool for furthering the political interests of some member States or group of States. Moreover, giving place to political considerations was seen as putting at risk flows of capital, both private and public investments. These considerations showed their limitations over time: by the 1960s, the belief that a clear separation could be made among political, social and economic considerations started to show its limits in practice.

Whereas the dilemma of isolating economic considerations from the political ones has characterised the Bretton Woods institutions' history until recent times, this has not impeded these institutions in dealing with human rights-related issues in the context of their activities. The difficulty of keeping political considerations outside their mandate was particularly glaring in the context of the apartheid regime established in South Africa, and in the Portuguese colonial practice; several resolutions of the UN General Assembly severely condemned these countries during the 1960s. A number of these resolutions also requested 'all States and international institutions, including the specialised agencies of the UN, to withhold assistance of any kind to the Governments of

¹⁵ Art. IV, Section 10 of IBRD's Articles of Agreement states under the heading 'Political Activity Prohibited' that: 'The Bank and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be weighed impartially in order to achieve the purposes stated in Article 1'.

¹⁶ See for example J. Gold, 'Interpretation: the IMF and International Law', (Kluwer Law International, London) 1996, pp. 434 *et seq.*; F. Gianviti, 'Economic, Social and Cultural Rights and the International Monetary Fund', IMF Conference – Washington, D.C., May 7–17, 2002, p. 5, available at <http://www.imf.org/external/np/leg/semi/2002/cdmfl/eng/gianv3.pdf> (accessed: 9 February 2006).

Portugal and South Africa until they renounce their policy of colonial domination and racial discrimination'.¹⁷ For the Bretton Woods institutions these UN resolutions revealed the dilemma arising from the separation to be made between economic and political considerations; the fear of being considered as 'judges' of political regimes and the preoccupation with being used for achieving political rather than economic purposes played a significant role in creating this dilemma. In 1967, the IBRD eventually interrupted its relationships with both countries, invoking economic justifications.¹⁸ It was considered that the political regime established in South Africa and the colonial practice of Portugal negatively affected the economic purposes of the development assistance provided by IBRD. The IMF suspended its assistance to South Africa in 1968, invoking macro-economic effects caused by the apartheid regime.¹⁹

Over the years, the interpretation made by the Bretton Woods institutions of the requirement of not taking into account the political situation prevailing in a country resulted in contradictory practice. Many of their clients, such as Mobutu's Zaïre, were concerned neither with the protection of human rights nor with integration into the global market economy or even with economic efficiency.²⁰ In contrast, when other States, such as Iran, argued that their good economic conduct meant that they should qualify for assistance, the major lenders did not hesitate to cite the internal political situations in these countries as the reason for refusing financial aid.²¹

On a few occasions, the limitations attached to the distinction between economic and political considerations – the latter being understood as including human rights considerations – were stressed.²² The situation

¹⁷ Resolution 2105 (XX), 20 December 1965. See also Resolution 2184 (XXI), 12 December 1966. See P. Pierson-Mathy, 'L'action des Nations Unies contre l'apartheid', *Revue belge de droit international* (1973), 160–177.

¹⁸ See S.I. Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund* (London: Cavendish, 2001), p. 9.

¹⁹ See M. Darrow, *Between Light and Shadow: The World Bank, the International Monetary Fund and International Human Rights Law* (Oxford: Hart, 2003), p. 172.

²⁰ See L. Boisson de Chazournes, 'Issues of Social Development: Integrating Human Rights into the Activities of the World Bank', in Institut international des droits de l'homme, *Commerce mondial et protection des droits de l'homme, les droits de l'homme à l'épreuve de la globalisation des échanges économiques* (Brussels: Bruylant, 2001), pp. 50 et seq.

²¹ *Ibid.*

²² Examples include Pakistan (regarding 1998 nuclear bombing testing and 1999 military coup); Russia (regarding human rights violations in Chechnya); Indonesia (regarding East Timor referendum). See Darrow, *Between Light*, pp. 190–191.

prevailing in Myanmar enabled the World Bank to state explicitly that a country's human rights situation may create conditions that are not conducive to economic investment and that in such cases the World Bank was entitled to demand that the State in question take remedial measures. The example of Myanmar is instructive, even if it is an 'exceptional' case given the gravity and volume of the human rights violations being committed.²³ After having conducted an 'economic and social assessment' of the country in 1999, the Bank's report on Myanmar emphasised the linkages that exist between poverty, human rights violations and poor economic performance.²⁴ The recommendations of the World Bank's assessment stressed the need to address the connection between 'bad economic development', poverty, and threats to social cohesion these comments were taken up by the UN Secretary-General, Kofi Annan, in his report to the General Assembly in 1999.²⁵

Another example is the *Chad-Cameroon Petroleum Development and Pipeline Project*,²⁶ which gave rise to a request brought before the World

²³ See *Forced Labour in Myanmar (Burma) – Report of the Commission of Inquiry appointed under Article 26 of the Constitution of the International Labor Organization to examine the observance by Myanmar of the Forced Labour Convention, 1930 (No. 29)*, ILO, Geneva, 2 July 1998, Official Bulletin *International Labor Organization*, Series B, Reports of the Committee on Freedom of Association Special Supplement, 1998, pp. 5 *et seq.*

²⁴ Myanmar: An Economic and Social Assessment, World Bank Poverty Reduction and Economic Management Unit, East Asia and Pacific Region. Report No 19628-BA. September, 1999. See, in particular, the section entitled 'Civil Society' (paras. 3.39 – 3.42, pp. 36–37) which begins with the following declaration:

'A description of the background of poverty and human development in Myanmar would be incomplete without a discussion of the human rights problems and civil conflicts that have plagued the country for many years and impeded its development. (. . .) More generally, civil society has not been able to fulfil its potential in Myanmar over the past four decades, up to today'.

The authors highlight the particular practices that aroused the indignation of the international community and led to the above-mentioned ILO Commission of Inquiry:

'Two major human rights issues, which are well known to the international community, are the failure of the regime to accept the results of a multi-party election held in 1992, and forced labor practices. Progress in both respects will be key to progress in human development in Myanmar [. . .]'

²⁵ UN Doc. A/54/499 of 27 October 1999.

²⁶ World Bank Inspection Panel Report, *Chad-Cameroon Petroleum and Pipeline Project* (Loan No. 4558-CD); *Petroleum Sector Management Capacity Building Project* (Credit No. 3373-CD); and *Management of the Petroleum Economy* (Credit No. 3316-CD), 17 September 2002, pp. 60–63, available at [http://wbln0018.worldbank.org/ipn/ipnweb.nsf/8442778ba27b386185256878000a5e6a/66acde37a016f16685256c37006465d6/\\$FILE/Chad%20Investigation%20Final%20Report.pdf](http://wbln0018.worldbank.org/ipn/ipnweb.nsf/8442778ba27b386185256878000a5e6a/66acde37a016f16685256c37006465d6/$FILE/Chad%20Investigation%20Final%20Report.pdf), (accessed: 9 February 2006).

Bank Inspection Panel,²⁷ in the context of which, the Bank's management stated that human rights issues are of relevance to the Bank only if 'they may have a significant direct economic effect on the project'²⁸ and the Inspection Panel considered that '(it) felt obliged to examine whether the issues of proper governance or human rights violations in Chad were such as to impede the implementation of the Project in a manner compatible with the Bank's policies'.²⁹

As can be noted, the requirement to only take into account economic considerations has shown its limitations over time, and its interpretation has evolved. The entanglement of economic and human rights considerations clearly emerged in the 1990s; the World Bank now admits that certain patterns of violations of human rights in a country may have so-called 'direct economic effects' on a project, and this requires the institution to reconsider its financing activities with a country.

The early 1990s also saw a revamping of Chapter VII of the UN Charter with the resort by the Security Council to binding decisions imposing trade and financial sanctions; political considerations and human rights violations could constitute reasons for the imposition of UN sanctions. In this context, the position taken by the World Bank is interesting as it once more highlights the limitations of the requirement of not taking into account non-economic considerations. The then General Counsel, Ibrahim Shihata, stated that 'if the UN Security Council decides, as it did in 1992 with respect to the Federal Republic of Yugoslavia, that it members must not make available any funds to a

²⁷ On this mechanism, see below, Part II B.

²⁸ In particular, the Management stated in its Response to the Panel that:

'The Bank is concerned about violations of human rights in Chad as elsewhere while respecting the Bank's Articles of Agreement which require the Bank to focus on economic considerations and not on political or other non-economic influences as the basis for its decisions. In evaluating the economic aspects of any project, human rights issues may be relevant to the Bank's work if they may have a significant direct economic effect on the project. Having carefully considered all aspects of this issue, Management's conclusion is that the Project can achieve its developmental objectives'.

Bank Management Response to Request for Inspection Panel Review of the Chad-Cameroon Petroleum Development and Pipeline Project, Chad Petroleum Sector Management Capacity Building Project, and Chad Management of the Petroleum Economy Project, 10 May 2001, p. 47, para.151, available at <http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/ManagementResponse051001.pdf> (accessed: 9 February 2006).

²⁹ World Bank Inspection Panel Report, *Chad-Cameroon Petroleum and Pipeline Project*, see fn. 26, pp. 62-63, para. 215.

member country and calls on international organisations to do the same, the Bank will not be in position to ignore this decision in reliance on its Articles'.³⁰ The IMF has not so far stated in explicit terms its position with respect to taking into account sanctions imposed by the Security Council.

The evolution of the concept of development in the post-Cold War period: towards a comprehensive and participative development

The taking into account of human rights considerations should also be assessed within the context of the evolution of the World Bank and IMF development activities. During the first decades of their functioning, development was conceived by the Bretton Woods institutions in purely macro-economic terms. In the 1960s, however, the World Bank started to include health, education and housing projects in its portfolio. These projects took flight in the context of the theory of 'essential needs' elaborated in alternative development circles and taken up by Robert MacNamara, the then President of the World Bank; a broader vision of development started to emerge.

The first example of social programming by the World Bank was a project focusing on education set up with the Philippines in 1961,³¹ and it was at this time that the Bank first began to read its mandate from a multidimensional perspective and to redefine its activities accordingly. The establishment of the International Development Association (IDA) in 1960 provided confirmation of the expansion of the World Bank's activities. The IDA was specifically mandated to provide favourable terms of credit for social development projects in the least developed countries. The IMF also viewed an enlargement of the reading of its mandate; during the second revision of the Fund's Articles of Agreement in 1976,³² following debate over the adoption of provisions relating to supervision

³⁰ See also: I. F. I. Shihata, 'The Relationships between the United Nations and the World Bank', in I. F. I. Shihata, *The World Bank Legal Papers* (The Hague/Boston/London: Kluwer Law International, 2000), pp. 808–810. See Guidelines on Procurement under IBRD Loans and IDA Credits, May 2004, 1.13, p. 8, available at <http://siteresources.worldbank.org/INTPROCUREMENT/Resources/Procurement-May-2004.pdf> (accessed: 9 February 2006), which contain a provision reflecting the above-mentioned statement. As a reminder, Art. 103 of the United Nations Charter reads as follows: 'In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.'

³¹ Rigo Sureda, 'The Law Applicable', pp. 192–205.

³² These modifications to the Articles of Agreement of the IMF were approved by the Board of Governors in its resolution no. 31–4 of 30 April 1976 and came into effect on 1 April 1978.

of exchange arrangements, a reference to the social policies of the organisation's Member States was inserted.³³

During the 1980s, the World Bank began to approach questions of judicial reform, the promotion of the rule of law, popular participation and the issue of good governance, and the issue of environmental protection also became increasingly prominent. Officially, however, the Bank's focus remained economic efficiency and effective financial management; nevertheless, it did not oppose the movement towards an enlargement of its operations to incorporate issues of social and sustainable development. This trend was reinforced by the far-reaching changes occurring in Eastern Europe that culminated in the eventual disintegration of the USSR. At the end of the 1990s, the financial crisis that erupted in Asia, Russia and Mexico highlighted the serious and negative impact of volatile

³³ According to the Second Amendment of the Articles in 1978, the IMF is endowed with the responsibility of overseeing the exchange rate policies of member States. Art. IV, Section III reads as follows:

- 'a) The Fund shall oversee the international monetary system in order to ensure its effective operation, and shall oversee the compliance of each member with its obligations under Section 1 of this Article.
- b) In order to fulfil its functions under (a) above the Fund shall exercise firm surveillance over the exchange rate policies of members, and shall adopt specific principles for the guidance of all members with respect to those policies. Each member shall provide the Fund with the information necessary for such surveillance, and, when requested by the Fund, shall consult with it on the member's exchange rate policies. The principles adopted by the Fund shall be consistent with cooperative arrangements by which members maintain the value of their currencies in relation to the value of the currency or currencies of other members, as well as with other exchange arrangements of a member's choice consistent with the purposes of the Fund and Section 1 of this Article. These principles shall respect the domestic social and political policies of members, and in applying these principles the Fund shall pay due regard to the circumstances of members'.

The Executive Board decision of 1977 (Decision No. 5392, as amended), which took effect when the Second Amendment entered into force in 1978, clarifies the principles underlying this surveillance responsibility:

'The Fund's appraisal of a member's exchange rate policies (...) shall be made within the framework of a comprehensive analysis of the general economic situation and economic policy strategy of the member, and shall recognise that domestic as well as external policies can contribute to timely adjustment of the balance of payments. The appraisal shall take into account the extent to which the policies of the member, including its exchange rate policies, serve the objectives of the continuing development of the orderly underlying conditions that are necessary for financial stability, the promotion of sustained sound economic growth, and reasonable levels of employment'.

capital movements in societies lacking regulatory or institutional safeguards. Attention thus eventually focused on the rules, institutions and mechanisms in place in those countries and their inability to respond to the vagaries of international capital markets.

The reforms undertaken by the Bretton Woods institutions at the end of the 1990s have further opened the institutions to a more inclusive nature of the concept of development. As an example, the 'Comprehensive Development Framework' (CDF)³⁴ presented in 1999 by the then President of the World Bank, James Wolfensohn, placed economic and financial concerns on the same footing as social justice, culture and respect for the rule of law, thereby advocating a more holistic approach to development than that which has been previously taken by the Bank. The comprehensive character of development is also reflected in the proclaimed objectives of the World Bank, in which the fight against poverty plays a central role. For the Bank, poverty is 'more than inadequate income or human development – it is also vulnerability and lack of voice, power and representation.'³⁵ The significance of social equity for attaining long-term development is stressed in the context of the Bank's 2006 Development Report.³⁶ The changed paradigm of development also includes a social participation process encompassing issues of openness and transparency. Development goals and strategies should be 'owned' by countries and their design should make room for public involvement.³⁷

³⁴ This document was elaborated by the former President of the World Bank, James Wolfensohn, and subsequently approved by the Bank's administrators in 1999. Information on the CDF is available at: <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/STRATEGIES/CDF/0,pagPK:60447~theSitePK:140576,00.html> (accessed: 9 February 2006).

³⁵ World Bank, World Development Report 2000/2001, *Attacking Poverty*, p. 12. The extensive nature of the World Bank's activities is illustrated by some data on the lending activities of the Bank. For example during the 2005 fiscal year, the World Bank lending for governance, public sector reform and promotion of the rule of law totalled \$ 2.9 billion. This represents approximately 13% of the Bank's total new lending. Lending Data, *The World Bank Annual Report*, 1 July 2004 to 30 June 2005. Information available at <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/EXTANNREP/EXTANNREP2K5/0,contentMDK:20639643~menuPK:1578490~pagePK:64168445~piPK:64168309~theSitePK:1397343,00.html> (accessed: 9 February 2006).

³⁶ World Bank, World Development Report 2006, *Equity and Development*. See Dañino, 'The Legal Aspects', p. 514, see fn. 5.

³⁷ World Bank, *Toward Country-led Development A Multi-Partner Evaluation of the Comprehensive Development Framework*, Synthesis Report, 2003, available at [http://lnweb18.worldbank.org/oed/oeddoclib.nsf/DocUNIDViewForJavaSearch/8746BD3C3A06832285256DAC005872C0/\\$file/synthesis_report.pdf](http://lnweb18.worldbank.org/oed/oeddoclib.nsf/DocUNIDViewForJavaSearch/8746BD3C3A06832285256DAC005872C0/$file/synthesis_report.pdf) (accessed: 9 February 2006).

The IMF gradually moved towards an approach favouring a multidimensional and participative understanding of development.³⁸ Whilst remaining focused on monetary, fiscal and exchange rate policy issues, the organisation shares with the World Bank a comprehensive understanding of the notion of development.³⁹ The Mexican crisis of 1994–95 and the 1990s Asian crisis underscored the fact that economic and financial policies of one country may affect many other countries, and also illustrated the need to strengthen the monitoring of economic and financial national strategies in order to prevent financial crisis. In this context the mechanisms dealing with international financial cooperation are essential and the IMF, with its nearly universal membership of 184 countries, can help in this task. In particular, through a consultation process carried out under Art. IV of its Articles of Agreement, the IMF can exercise surveillance over the exchange rate policies of its member countries.⁴⁰ Whereas the objectives of its surveillance activity remain the same as those foreseen by its constitutive agreement, its framework has evolved significantly, now covering a wide range of institutional and structural policies.⁴¹

In the 1980s, with the establishment of a concessional facility designed for countries having protracted balance of payments problems, the IMF started to deal with poverty alleviation, and its involvement in this area has been strengthened by the creation of the Poverty Reduction and Growth Facility (PRGF) in 1999. In the design of the Poverty Reduction Strategy Papers (PRSPs) which serve as a framework for requesting loans to the Facility, considerations concerning human rights issues can be included.⁴² Whilst the IMF is increasingly placing emphasis on good

³⁸ S. Pereira Leite, 'Human Rights and the IMF', see fn. 6. In this regard, the then IMF General Counsel and Director of the Legal Department François Gianviti stated however, that: 'The Fund is a monetary agency, not a development agency. While its mandate and policies have evolved over time, it remains a monetary agency, charged with the responsibility to maintain orderly exchange rates and a multilateral systems of payments free of restriction on current payments'. F. Gianviti, 'Economic, Social and Cultural Rights and the International Monetary Fund', see fn. 16, p. 42.

³⁹ See the joint statement made by the two presidents in 2000. *The IMF and the World Bank Group: an enhanced partnership for sustainable growth and poverty reduction*, Joint Statement by Horst Köhler and James Wolfensohn, 5 September 2000, available at <http://www.imf.org/external/np/omd/2000/part.htm> (accessed: 9 February 2006).

⁴⁰ Art. IV, Section III, see fn. 29.

⁴¹ There are calls for also including social issues during the consultation process. See *Independent Evaluation Office – Evaluation of Fiscal Adjustment in IMF-Supported Programs*, September 2003, available at <http://www.imf.org/External/NP/ieo/2003/fis/pdf/all.pdf> (accessed: 9 February 2006). ⁴² *Ibid.*

governance issues in its policy advice, financial and technical assistance to member States,⁴³ its understanding of good governance is still being centred on economic aspects of governance that could have a significant macroeconomic impact.

Calls for having the World Bank and the IMF involved in the realisation of the Millennium Development Goals (MDGs) were strong at the Monterrey Conference held in 2002.⁴⁴ The endorsement of the MDGs by the Bretton Woods institutions contributed to further the multidimensional character of development. In order to achieve the MDGs, the World Bank is targeting investments towards education, health as well as the expansion of the borrower capacity to provide basic services such as water supply and sanitation services.⁴⁵ The IMF is also involved in the realisation of the MDGs through the poverty reduction strategies that it has put in place. Poverty Reduction Strategy Papers may introduce

⁴³ In this regard in 1996, the Board of Governors of the IMF adopted a declaration to 'promote good governance in all its aspects, including by ensuring the rule of law, improving the efficiency and accountability of the public sector, and tackling corruption, as essential elements of a framework within which economies can prosper'. *Partnership for Sustainable Global Growth*, Interim Committee Declaration Washington, D.C. 29 September 1996 <http://www.imf.org/external/np/sec/pr/1996/pr9649.htm#partner>. See also *The Role of the IMF in Governance Issues: Guidance Note*, approved by the IMF Executive Board on 25 July 1997 (<http://www.imf.org/external/pubs/ft/exrp/govern/govindex.htm>) and *Executive Board Reviews IMF's Experience in Governance Issues*, 28 March 2001, available at <http://www.imf.org/external/np/gov/2001/eng/report.htm> (accessed: 9 February 2006).

⁴⁴ UN, *Monterrey Consensus of the International Conference on Financing for Development*, Monterrey, 1 March 2002, A/ CONF/198, paras. 63 and 71. See Dañino, 'The Legal Aspects', see fn.5, p. 521. On the relation between human rights and the MDGs see the Sachs Report affirming that: 'Human rights are both a central practical objective of good governance and a normative standard agreed to by all signatories to the UN Millennium Declaration. The declaration reaffirmed the commitment of all signatory nations to respect and uphold the principles identified in the Universal Declaration of Human Rights and to fully protect social, cultural, economic, and political rights for all, including the right to development'. Millenium Project, *Investing in Development, A Practical Plan to Achieve the Millenium Development Goals*, Earthscan (2005), p. 118, available at <http://www.unmillenniumproject.org/documents/MainReportComplete-lowres.pdf> (accessed: 9 February 2006).

⁴⁵ IDA, Report from the Executive Directors of the International Development Association to the Board of Governors, Additions to IDA Resources: Fourteenth Replenishment, *Working Together to Achieve the Millennium Development Goals*, approved by the Executive Directors of IDA on 10 March 2005, http://siteresources.worldbank.org/IDA/Resources/14th_Replenishment_Final.pdf (accessed: 9 February 2006). See also the World Bank, *Global Monitoring Report Millennium Development Goals: from consensus to momentum*, 2005. <http://siteresources.worldbank.org/GLOBALMONITORINGEXT/Resources/complete.pdf> (accessed: 9 February 2006).

structural and social policies that are needed to improve health and education, safeguard the environment, and combat diseases.⁴⁶

Over time the Bretton Woods institutions have increasingly paid attention to a broader range of matters such as governance, health, education and housing,⁴⁷ and the proportion of social projects has consequently vastly increased. The World Bank's projects in 2005 regarding public sector governance, environmental protection, and social and human development represent more than half of the IBRD/IDA lending activities⁴⁸ and this evolution, which has paved the way for the promotion of human rights, was made possible through the use of various modes of intervention.

The promotion and protection of human rights in the activities of the Bretton Woods institutions: on linkages

The wide range of possibilities of interventions along with the development of several normative and institutional instruments adopted by the Bretton Woods institutions have favoured an evolving interpretation of their mandates, and an analysis of those mandates promotes understanding of the increasing role played by these institutions in the human rights field. Given its rather technical objectives and its less operational nature, the IMF has developed fewer instruments which allow it to play a role in the human rights field; however, the fact that it has been progressively involved in poverty reduction activities – for example, through the establishment of the above-mentioned Poverty Reduction Facility – has made room for human rights issues. Moreover, the 2002 Monterrey Consensus highlighted the role of the World Bank and the IMF in meeting the MDGs and gave an opportunity for the inclusion of social policy considerations in their activities.⁴⁹

Financing activities and the promotion of human rights

The broad interpretation of their mandate, together with a far-reaching concept of development, have empowered the Bretton Woods institutions

⁴⁶ See *The IMF and the Millennium Development Goals*, 2005, available at <http://www.imf.org/external/np/exr/facts/mdg.htm> (accessed: 9 February 2006).

⁴⁷ See the interview with the Senior Advisor to World Bank Managing Director Mamphela Ramphela in the occasion of the Human Rights Day of 2003, see fn. 6.

⁴⁸ See *Lending Data, The World Bank Annual Report*, 1 July 2004 to 30 June 2005, see fn. 35.

⁴⁹ UN, *Monterrey Consensus of the International Conference on Financing for Development*, see fn. 44.

in the development of means for legitimising their activities, to increase public participation and to create mechanisms of accountability.⁵⁰ These institutions have also extended their modes of intervention and developed normative instruments. In the first decades of their activities, each financial institution had a role to play; on the one hand, the World Bank provided loans for projects in various countries in order to promote development and reconstruction, whilst on the other hand, the IMF supported countries with problems in their balance of payments. However, over time this distinction has become blurred. Since the 1980s, the World Bank has been financing structural adjustment programs, an activity also pursued by the IMF. Whilst pursuing funding mechanisms to helping low-income countries, the IMF began to run activities similar to those of the World Bank in the area of governance, rule of law and organised crime.

Originally, the World Bank's primary means of intervention was meant to be the granting of loans for specific projects. The World Bank's Articles of Agreement allow the institution to lend money for non-specific projects and activities only in exceptional cases; over the years, however, the exception has become a principle of action together with the financing of specific projects. During the 1980s, the World Bank began to provide loans for the purpose of structural adjustment.

The oil crises and the ensuing increase in the price of 'black gold' on the global market, as well as some of the economic policies implemented by the recipient States, were used by the Bretton Woods institutions as justification for the promotion of structural adjustment programs. Loans were therefore granted to recipient States to allow them to undertake the reforms necessary in order to attain the goal of balancing their external trade. These loans imposed conditions on the countries regarding fiscal policy, free trade, or public affairs management. The social consequences of these programmes (including layoffs, reductions in public spending, and overall increased vulnerability for certain segments of the population) were criticised by UN specialised agencies, such as the UNDP and UNICEF, and were equally criticised by civil society, which had begun to organise itself both at the national and international levels.⁵¹

⁵⁰ Rigo Sureda, 'The Law Applicable', p. 247.

⁵¹ See P. Klein, 'Les institutions financières internationales et les droits de la personne', *Revue belge de droit international* (1999), 97–114.

During the 1990s, as a result of the failures of previous initiatives and confronted with the task of integrating the needs of the newly arrived Eastern bloc countries, the Bretton Woods institutions engaged themselves in a process of reshaping their structural adjustment programmes, which allowed for an increased focus on human rights considerations. Social safety nets were put in place. The notion of social safety covers actions to diminish the consequences of economic redress measures and to promote better social protection.⁵² These remedial actions were conceived for those who may suffer damages due to the implementation of a programme supported by the World Bank and the IMF.⁵³ Social safety nets can take many forms; they can integrate subsidies or cash compensation directed at the most disadvantaged segments of the population, and may also take into account improved distribution of essential commodities, such as medicines, as well as temporary price controls on some essential commodities. These remedial actions help States protect the most vulnerable segments of their population during the adjustment period. In most cases, the IMF largely relies on the World Bank to take the lead in the design of social safety nets, which are then incorporated into IMF-supported programs.⁵⁴ Projects which lead to the closure of factories and large-scale layoffs may include the allocation of funds for financial compensation or to facilitate professional reintegration.

Social safety nets can also take the form of social funds.⁵⁵ Whilst at the beginning these funds were conceived as short-term instruments dealing with emergency situations, in recent times they have been used for local development purposes with a focus on the participation of local communities. For instance, social funds may finance small projects ranging from infrastructure and social services to training and micro-enterprise

⁵² See 'Managing the Social Consequences of Economic Crises', *Workshop on Social Policy Principles and The Social Development Agenda* (Carnegie Council on Ethics and International Affairs), 3-5 December 1999. This document is an extract from 'Managing the Social Dimensions of Crises: Good Practices in Social Policy' (presented at the Fall 1999 meetings of the Development Committee), available at <http://www.worldbank.org/poverty/library/index.htm> (accessed: 9 February 2006).

⁵³ See T. Lane, A. Ghosh, J. Hamann, S. Phillips, M. Schulze-Ghattas, and T. Tsikata, 'IMF-Supported Programs in Indonesia, Korea, and Thailand: A Preliminary Assessment', *IMF Occasional Paper* 178 (1999).

⁵⁴ S. Gupta, L. Dicks-Mireaux, R. Khemani, C. McDonald, and M. Verhoeven, 'Social Issues in IMF-Supported Programs', *IMF Occasional Paper* 191 (2000).

⁵⁵ In 1986, the first social fund, the Bolivian Emergency Social Fund, was created. See *The World Bank Participation Sourcebook*, 1996, available at <http://www.worldbank.org/wbi/sourcebook/sb0405t.htm#E2> (accessed: 9 February 2006).

development projects that have been identified by the communities, and they may be managed by a wide range of actors, including local governments, NGOs, community groups and local project committees.⁵⁶

Following the Mexican economic crisis of 1994–1995 and that of 1997, the shockwaves from which were felt in Asia and then in Russia, as well as in Latin America, the Bretton Woods institutions intervened in order to assist the affected countries. Through the granting of stabilisation loans, the World Bank supported (with a loan of several billion dollars) South Korea, which at that time was unable to cope with the simultaneous withdrawal of a large amount of private capital from its financial markets. This financial crisis brought to the fore the role of the IMF and the World Bank (to a lesser extent) as the financiers of globalisation. The question remains whether the public funds being lent by these institutions should be used, as they have been, to repay the debts incurred by political and economic elites in developing countries to the credit of private investors (the majority of which are European or North American), attracted by the idea of investing in developing markets but very quick to withdraw their funds at the smallest sign of instability. This uncontrolled capital movement has rocked the economic systems of the countries concerned to the extent that they have collapsed, to the great detriment of local populations who have suffered in return large-scale retrenchments, programs of austerity and other drastic measures.⁵⁷

These problems lie at the heart of considerations on the future role of the IMF and its relationship with the World Bank in what should become a new financial system.⁵⁸ The move from a 'real economy' of production to a 'symbolic economy' of finance, forces the role of these financial institutions, which were created in a period of real economy, to be questioned. In particular, their role with regard to the beneficiaries of development activities – that is, the populations of recipient countries rather than the creditors, investors or other speculators on the international stock market – should be considered with a view to ascertaining whether the symbolic economy is beneficial to the populations in recipient countries.

⁵⁶ M. Bhatia, 'Social Funds: A Review of Public Sector Management and Institutional Issues, Social Protection', Social Protection Unit, Human Development Network, World Bank, *Discussion Paper Series*, No. 0508 (2005).

⁵⁷ L. Boisson de Chazournes, 'Issues of Social Development'.

⁵⁸ See A. Swoboda, 'Reforming the International Financial Architecture', *Finance and Development. A Quarterly Magazine of the IMF* 36 (1999), available at <http://www.imf.org/external/pubs/ft/fandd/1999/09/swoboda.htm> (accessed: 9 February 2006).

Other considerations relate to the role that the Bretton Woods institutions may play in the context of national policies. As lenders, these institutions have a dominant position in their dialogue with recipient States and they may use this position to take social considerations into account. The World Bank's power is even greater if one keeps in mind the fact that it frequently presides over groups of lenders and is therefore able to direct decision-making in the area of public financing. The institution also plays the role of mediator (or facilitator) in the context of financial operations involving a number of different public and private partners and, as a result, it is able to affect the choices and decision-making of States in areas such as social or environmental protection.⁵⁹

Debt reduction strategies have recently included a social dimension which allows human rights considerations to play a role. Those adopted in the 1980s were essentially financial in nature, aiming at rescheduling private loans, negotiating new loans, or repurchasing. By contrast, those implemented in the 1990s are more concerned with public debts and with the incorporation of a social dimension into the debt reduction programs. In 1996 the World Bank and IMF established a programme to alleviate the servicing of multilateral debts to Heavily Indebted Poor Countries (HIPC) under the condition that a portion of the unused amount be used for social development activities.⁶⁰ The 1999 enhancements of the HIPC Programme along with the calls made by the 2002 Monterrey Conference in 2002⁶¹ have strengthened the links between debt relief and social policies such as poverty reduction and the achievement of the MDGs.

The G-8 Summit held at Gleneagles in 2005 favoured an agreement on the cancellation of the debts owed by eligible HIPCs to IDA, the IMF and the African Development Fund.⁶² Following the statement made by the G-8, the IMF Executive Board discussed the G-8 proposal, saying that they 'reiterated their commitment to further debt relief by the IMF as

⁵⁹ On the importance of this role, see *Review of Aid Coordination in an Era of Poverty Reduction Strategies* (IDA Review 2001), 1 May 2001.

⁶⁰ Resolution on the Establishment of the Heavily Indebted Poor Countries (HIPC) Debt Initiative Trust Fund, 36 ILM 990 (1997). See also Modifications to the Heavily Indebted Poor Countries (HIPC) Initiative, 23 July 1999, available at <http://www.imf.org/external/np/hipc/modify/hipc.htm> (accessed: 9 February 2006).

⁶¹ On the occasion of the 2002 Monterrey Conference, the role of the HIPC for achieving the MDGs was highlighted. UN, *Monterrey Consensus of the International Conference on Financing for Development*, see fn. 44, para. 49.

⁶² G-8, Chair's Summary, Gleneagles Summit, 8 July 2005, available at <http://www.g8.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1119518698846> (accessed: 9 February 2006).

part of the international support for low-income countries.⁶³ The HIPC might be a privileged framework for developing new forms of interactions between social and economic considerations, even though it should not be understood as a panacea.

Due to the increased attention being given to the social dimensions of its operations, the World Bank has developed some normative and institutional instruments over time, which play an important role in operationalising human rights. The most important ones are the Operational Policies and Procedures (hereinafter: 'operational policies')⁶⁴ designed to guide World Bank staff in the preparation, assessment and implementation of the projects it finances. Originally, these instruments were conceived as aspirational targets drawn from practice and enshrined in policy documents to provide the Bank staff with guidance when designing or implementing operational activities. These policies have increasingly become considered to be indispensable means in assessing the quality of Bank-financed activities,⁶⁵ including as vehicles for promoting the implementation of human rights. Such is the case with the operational policies dealing with the conduct of environmental impact studies, compensation of people displaced as a result of a project, the protection of indigenous peoples, and the fight against poverty.⁶⁶

⁶³ IMF, Statement by the IMF Managing Director Following Executive Board Discussion on the G-8 Proposal for Further Debt Relief, Press Release No. 05/183, 3 August 2005, available <http://www.imf.org/external/np/sec/pr/2005/pr05183.htm> (accessed: 9 February 2006). With respect to the World Bank, at the *UN High-level Dialogue on Financing for Development in New York* (New York, 27–28 June 2005, UN Doc. A/60/219), the World Bank's Chief Economist, François Bourguignon, welcomed the G-8 proposal to cancel the debt of the poorest countries and the agreement to fully cover the costs of the debt relief. World Bank, News, *G-8 Gleneagles Summit and Development*, 1 July 2005, available at <http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,contentMDK:20567463~pagePK:64257043~piPK:437376~theSitePK:4607,00.html> (accessed: 9 February 2006).

⁶⁴ L. Boisson de Chazournes, 'Policy Guidance and Compliance: The World Bank Operational Standards' in Shelton, D. (ed.), *Commitment and Compliance* (Oxford: Oxford University Press, 2000), pp. 281–303.

⁶⁵ Various events in the early 1990s contributed to this change of perception, especially the release of two reports commissioned by the Bank: the *Morse Report*, an independent review of highly-criticised projects known as the 'Narmada Projects', and the *Wapenans Report*, an internal review of Bank operations commissioned by its President in the wake of the *Morse Report* to assess the implications of Bank-financed projects and to draw some lessons and recommendations on how to improve their effectiveness. B. Morse and T.R. Berger, *Sardor Sarovar: The Report of the Independent Review Resource Futures International Inc.*, Ottawa. (1992) and World Bank, *Effective Implementation: Key to Development Impact* (R92–125), 3 November 1992.

⁶⁶ See OP/BP 4.01 on Environmental Assessment OP/BP 4.12 on Involuntary Resettlement; OP/BP 4.10 on Indigenous Peoples, OP. 1.0 on Poverty Reduction. All World Bank

Environmental and social policies are geared towards an elaborated consideration of international good practices as reflected in international agreements and instruments adopted in the UN arenas and other fora. In the design and implementation of its policies, the World Bank does not operate in isolation and its operational policies reflect many concerns expressed in various international fora. The relationship between these policies and international law standards highlight their mutually reinforcing contribution to the promotion of human rights and the rule of law.

Operational policies also expressly refer to international principles and rules as a means of identifying the good and best practices to be followed. They provide guidance and help identify the minimum standards to be complied with in a Bank project. The operational policy on 'management of cultural property in Bank-financed projects', for example, makes explicit reference to country obligations under international treaties concerning cultural property, such as the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage.⁶⁷ Although some operational policies make precise reference to various international instruments,⁶⁸ they do not exclude the possibility of taking into account other instruments not explicitly mentioned, such as human rights instruments. International treaties or instruments of a programmatic nature may provide guidance in the context of the application of the World Bank operational policies.

operational policies and procedures are available at <http://wbln0018.worldbank.org/institutional/manuals/opmanual.nsf/284229c803270fad8525705a00112597/4f259df5b66ff0ce8525705c0022f931?OpenDocument> (accessed: 9 February 2006). In particular, paragraph 1 of the operational policy on indigenous peoples explicitly states that: 'This policy contributes to the Bank's mission of poverty reduction and sustainable development by ensuring that the development process fully respects the dignity, human rights, economies, and cultures of Indigenous Peoples'.

⁶⁷ The 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage is given as a reference for defining the notion of cultural property (See OP 4.11, para. 2(a)). OP 4.11 is under preparation; until it is issued, the Bank staff is guided by the provisions of Operational Policy Note (OPN) 11.03. See fn. 66.

⁶⁸ For instance the OP 4.09 on Pest Management Minimum Standards employs definitions with reference to the FAO's Guidelines for Packaging and Storage of Pesticides (1985), Guidelines on Good Labeling Practice for Pesticides (1985) and Guidelines for the Disposal of Waste Pesticide and Pesticide Containers on the Farm (1985). See also the policy on application of Environmental Assessment to projects involving pest management (BP 4.01-Annex C), which refers to the WHO Classification of Pesticides by Hazard and Guidelines to Classification (1994-1995) and to the UN Consolidated List of Products Whose Consumption and/or Sale have been Banned, Withdrawn, Severely Restricted or not Approved by Governments (1994). See the OP 4.09 on Pest Management Minimum Standards and OP/BP 4.01 on Environmental Assessment, see fn. 66.

The policies on environmental assessment, indigenous populations and involuntary resettlement require that projects financed by the Bank take into account the domestic legal order of the borrowing country, and that the Bank should exercise due diligence and good faith in assessing the legal situation prevailing in a borrowing country, including the international commitments the country has undertaken. Clearly, various means exist for the integration of international commitments into domestic legal orders, be it through enabling legislation, direct incorporation or by other means that make international requirements part of the domestic legal order of the borrower. Such requirements may then be taken into consideration when implementing the relevant operational policies. Normally the Bank's policies will correspond to the domestic legal order, but in some cases these policies may override the relevant national requirements and call for the application of higher standards.

The interactions between international law instruments and operational policies underline the pragmatic nature of these policies, which aim to identify and implement the best practices to promote compliance with international law requirements. The fact that the international instruments to which a borrowing country has committed itself should be taken into consideration, or should be considered as reflecting agreed international good and best practices, shows the close relationship of the operational standards with international law principles and standards in areas covered by them. It also demonstrates the virtues of operational policies and procedures in promoting the implementation of international law instruments. Operational policies constitute a means by which new patterns of behaviour are encouraged in borrowing countries; as such, they favour the emergence or consolidation of international practices which may acquire the status of customary norms.

As a general requirement, first stated in a policy adopted in 1984,⁶⁹ the Bank has committed itself not to finance projects that contravene

⁶⁹ See OMS 2.36 on Environmental Aspects of Bank Work (1984). The provision reads: 'The Bank will not finance projects that contravene any international environmental agreement to which the member country concerned is a party'. See also Operational Policy (OP) 4.36 on Forestry and Operational Policy (OP) 4.01 on Environment Assessment. The provision of the OP 4.36 reads: 'Governments must also commit to adhere to their obligations as set forth in relevant international instruments to which they are a party'. The relevant part of the policy on Environment Assessment reads: '[E]A . . . takes into account the obligations of the country, pertaining to project activities, under relevant international environmental treaties and agreements. The Bank does not finance project activities that would contravene such country obligations, as identified during the EA'. See fn. 56.

international environmental agreements to which the concerned member country is a party. This requirement not only shapes the conduct of the Bank with respect to international environmental agreements, but also increases the awareness of borrowing countries to the significance of international law standards and the importance of implementing them, and, as has been observed, this requirement not to contravene international law should find application in other areas than international environmental law:

'The IBRD is rightly concerned with its borrowers respecting the treaties that bind them in the course of its operations. In its work, there should not be any question that the IBRD is bound to respect them. Itself should not be instrumental in creating opportunities for the violation of human rights.'⁷⁰

The relationship between operational policies and human rights was highlighted in the context of the request brought before the World Bank Inspection Panel in the *Chad-Cameroon Petroleum Development and Pipeline Project*.⁷¹ The Inspection Panel considered whether the situation of human rights in Chad was such 'to impede the implementation of the Project in a manner compatible with the Bank's policies' and it concluded 'the Panel observes that the situation is far from ideal. It raises questions about compliance with Bank policies, in particular those that relate to informed and open consultation'.⁷² The report of the World Bank Inspection Panel illustrates the links between compliance with operational policies and the protection of human rights, and it also confirms the importance of the involvement of public participation in the design and implementation of projects. Human rights give body to the interpretation of this principle.

Public participation and accountability, with special emphasis on the World Bank Inspection Panel

Public participation has gained an important status in the context of the World Bank operations. It is an operative and interactive notion which includes the concepts of transparency and access to justice. It reveals the growing importance of individuals and local groups in decision-making processes at the local, national and international levels. Resolutions of the

⁷⁰ Rigo Sureda, 'The Law Applicable', p. 218.

⁷¹ See fn. 26.

⁷² *Ibid.*, p. 63, para. 217.

UN Commission on Human Rights⁷³ and of the UN General Assembly⁷⁴ have highlighted the links between human rights and public participation as well as democracy.

The various facets of the notions of public participation and accountability

Since the end of the 1980s the concept of public participation has become increasingly prominent with regard to the preparation and implementation of projects financed by the World Bank. The calls are many for public participation in the operational policies and procedures of the Bank. They include consultation of concerned populations and local NGOs about a project's environmental aspects within the context of an Environmental Assessment (EA),⁷⁵ community participation and consultations with people affected by a resettlement as a result of a project financed by the Bank,⁷⁶ and informed participation of indigenous populations in projects in which they have interests at stake.⁷⁷ Public participation practices also involve local groups in the planning, designing and monitoring of projects related to the protection of natural habitats⁷⁸ as well as in forestry and conservation management activities.⁷⁹

In the case of the Bank's EA policy, meaningful consultations with project-affected groups and local NGOs must be held during the environmental assessment process and should be initiated as early as possible.

⁷³ For example, the Commission on Human Rights in its Res. 2005/29 on 'Strengthening of popular participation, equity, social justice and non-discrimination as essential foundations of democracy' stated that 'the right to development is a crucial area of public affairs in every country and requires free, active and meaningful popular participation'. UN Doc. E/CN.4/RES/2005/29, 20 March 2005, para. 5.

⁷⁴ In its Res. 55/96 on 'Promoting and consolidating democracy' adopted in 2001 the General Assembly called States to promote and consolidate democracy, *inter alia*, by 'promoting pluralism, the protection of all human rights and fundamental freedoms, maximizing the participation of individuals in decision-making and the development of effective public institutions', UN Doc. A/RES/55/96, 28 February 2001, para. 1. See also the *Agenda for Development* adopted by the General Assembly in 1997, which proclaims that: 'Democracy, respect for all human rights and fundamental freedoms, including the right to development, transparent and accountable governance and administration in all sectors of society, and effective participation by civil society are also an essential part of the necessary foundations for the realization of social and people centred sustainable development', UN Doc. A/RES/51/240, 20 June 1997, para. 1.

⁷⁵ See OP 4.01 on Environmental Assessment, para. 15. See fn. 66.

⁷⁶ See OP 4.12 on Involuntary Resettlement, paras. 7–12. See fn. 66.

⁷⁷ See OP 4.10 on Indigenous Peoples, paras. 10–11. See fn. 66.

⁷⁸ See OP 4.04 on Natural Habitats, para. 10. See fn. 66.

⁷⁹ See OP 4.36 on Forestry, paras. 11–12. See fn. 66.

Dam and reservoir projects receive special treatment in the Bank's environmental assessment procedures in order to avoid, minimise or compensate for adverse environmental impacts wherever possible, using design features and other measures implemented as part of the project. Potential project impacts are identified at an early stage with the advice of environmental specialists, and the Bank must ensure that the borrower selects independent, recognised experts to carry out environmental reconnaissance to identify the project impacts, ascertain the scope of the EA, assess the borrower's capacity to manage an EA process, and advise on the need for an independent advisory panel, which would normally be set up for large dam projects.

The purpose of the policy for indigenous peoples is to ensure that these groups benefit from development projects and that potentially adverse effects of Bank projects on indigenous populations are avoided or mitigated. The policy requires the 'informed participation' of indigenous peoples in projects and programs that affect them. To this effect, the borrowing country must prepare an indigenous peoples' development plan to provide the framework for their participation in project activities and to ensure that they receive socially and culturally appropriate benefits.

Like the policy on indigenous peoples, the policy on resettlement requires informed participation and consultation with the affected people during the preparation of the resettlement plan, and community participation in planning and implementing resettlement should be encouraged as well. The policy on resettlement stresses the need to pay particular attention to the needs of the poorest and to give appropriate attention to indigenous peoples, ethnic minorities and 'pastoralists' who may have customary rights to the land or other resources taken for the project.

The policies and procedures on environmental impact assessment, indigenous peoples and involuntary resettlement also contain specific provisions requiring the involvement of NGOs. A policy on disclosure of operational information sets out procedures to be followed for making copies of environmental assessments and environmental action plans accessible to affected groups and local NGOs in borrowing countries.⁸⁰

⁸⁰ A policy on disclosure of operational information was formally adopted in 1993. See 'The World Bank and Non-Governmental Organizations', in I. F. I. Shihata, *The World Bank in a Changing World. Selected Essays and Lectures*, vol. II (The Hague/London/Boston: Martinus Nijhoff, 1995), pp. 265-266.

Legally, these operational policy requirements are important vehicles for 'operationalising' or implementing broader international standards on access to information, public awareness and participation in decision-making. As such they acknowledge the role of the beneficiaries of development assistance activities in ensuring the sustainability of such activities

There is no doubt that these policy prescriptions, which are operationalised in the Bank's activities, contribute to a large extent to the development of international rules and standards in development assistance activities. Furthermore, the measures that have been taken to strengthen information disclosure have contributed to the promotion of transparency and access to information. In doing so, the policy prescriptions have contributed to the empowerment of non-state actors, and more especially local populations, by giving them the opportunity to be more effectively involved in the decision-making process. By favouring the participation of non-state actors in the Bank's activities, these policies make them the 'guardians' of respect for the norms and procedures contained therein.

A further step was the establishment of the World Bank Inspection Panel. The Inspection Panel is a subsidiary body of the World Bank's Board of Executive Directors (the Board),⁸¹ and has been established to ensure better quality in the projects financed by the organisation, by means of an investigation mechanism. It has jurisdiction over the operational activities of two of its affiliates, the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA).⁸²

At the time of its adoption, the Panel procedure constituted a first in providing a remedy against actions of an international organisation.

⁸¹ See para. 12 of the Resolution establishing the Inspection Panel, Resolution No. IBRD 93-10, resolution No IDA 93-6; 34 *International Legal Materials* 503 (1995). On the basis of para. 27 of the Resolution, two Board Reviews of the Inspection Panel have been conducted. They have clarified and in some respects amended the Resolution; see Clarifications of Certain Aspects of the Resolution Establishing the Inspection Panel (R96-204) dated September 30, 1996 and approved by the Board of Executive Directors on October 17, 1996, The Inspection Panel, *Annual Report*, August 1, 1996 to July 31, 1997, pp. 29-30. The second set of Clarifications, also entitled 'Conclusions of the Board's Second Review of the Inspection Panel' was approved on 20 April 1999. See L. Boisson de Chazournes, 'The World Bank Inspection Panel: About Public Participation and Dispute Settlement', in T. Treves *et al.* (eds.), *Civil Society, International Courts and Compliance Bodies*, (The Hague: TMC Asser Press, 2005) pp. 187-203.

⁸² On the World Bank Inspection Panel, see below.

Similar types of procedures subsequently have been put into place by other financial institutions.⁸³ Two other affiliates of the World Bank group, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA) have created another mechanism in 1999, i.e. the Compliance Advisor Ombudsman (CAO).⁸⁴ The significant difference when compared to other models is that this mechanism only deals with private sectors projects. The CAO has three functions, the first being its Ombudsman's role, using mediation and other dispute settlement techniques to address complaints by people who feel that they are or will be affected by MIGA- or IFC-supported projects; the second is as a compliance auditor to verify selected projects; and finally the CAO provides independent advice to senior management, either with regard to specific projects or more generally on the application and effectiveness of policies. Whilst functionally independent, the CAO nonetheless reports to the President of the Bank.

The IMF on its side set up in 2000 an Independent Evaluation Office (IEO) evaluating IMF's general policies as well as completed country operations.⁸⁵ The establishment of this body follows the calls for independent reviews of the programmes undertaken by the IMF, in particular after the 1990s financial crisis, and some of its features suggest a possible involvement of the public in the IMF activities. According to its terms of reference, 'in carrying out its mandate, including in the preparation of its Work Program, IEO will be free to consult with whomever and whichever groups it deemed necessary, both within and outside the Fund'.⁸⁶ The work programme performed by this body during the first years of its activities illustrates a growing concern of the IMF in the fields of openness and transparency. Some of the most sensitive issues for the organisation were dealt with by this body; in particular, it tackled issues such as the IMF role in the recent Indonesian, Brazilian and Korean financial crises, and in the year of writing, 2006, it will complete the work on IMF structural conditionality.⁸⁷

⁸³ For further developments on the World Bank Inspection Panel, see Boisson de Chazournes, 'The World Bank Inspection Panel', pp. 200–202.

⁸⁴ See *Operational Guidelines for the Office of the IFC/MIGA Compliance Advisor/Ombudsman*, 1999, available at [http://www.cao-ombudsman.org/pdfs/FINAL%20CAO%20GUIDELINES%20%20IN%20ENGLISH%20\(09-20-00\).doc](http://www.cao-ombudsman.org/pdfs/FINAL%20CAO%20GUIDELINES%20%20IN%20ENGLISH%20(09-20-00).doc) (accessed: 9 February 2006).

⁸⁵ See IMF, *Executive Board Report to the IMFC on the Establishment of the Independent Evaluation Office (IEO) and its Terms of Reference*, 12 September 2000. ⁸⁶ *Ibid.*

⁸⁷ Work programme for fiscal year 2006, 24 June 2005, available at <http://www.imf.org/External/NP/ieo/2005/wp/eng/index.htm> (accessed: 9 February 2006).

In some of the IMF activities, there is an emerging trend for involving the public in the programmes that it finances, for example national governments and civil society are asked to cooperate closely in order to formulate the objectives of national strategies against poverty. Moreover, the IMF encourages States to adopt policies which meet a broader support from the public.⁸⁸ In this context, the IMF has developed a certain number of codes of good practice and standards related to transparency in national decision-making processes.⁸⁹ At the national level access to information is promoted, thus allowing local communities to participate effectively in the design and implementation of IMF-supported programs; it also contributes to better transparency of the national decision-making processes.

The procedure of the World Bank Inspection Panel

The establishment of the Inspection Panel constitutes a pioneering endeavour in the field of international organisations. Under the procedure put in place, private persons are given direct access to the World Bank if they believe they are directly and adversely affected by a Bank-financed project. With this mechanism, the Bank has created a new vehicle for public participation and has provided access to administrative proceedings, including remedies.

One of the main objectives behind the creation of the Inspection Panel was the improvement of quality control in project preparation and in the supervision of the implementation of projects financed by the Bank. In this context, the Inspection Panel was established as an independent and permanent organ within the Bank's structure. It is composed of three members of nationalities of Bank member countries who are nominated by the Bank's President and appointed by the Board. The Panel was granted the competence to receive and, subject to the approval of the Bank's Board, to investigate complaints from groups of individuals whose rights or interests have been, or are likely to be, directly and

⁸⁸ On 25 September 2002, the Executive Board approved a new set of guidelines on conditionality, replacing guidelines that had been in effect since 1979. *Guidelines on Conditionality*, 25 September 2002 <http://www.imf.org/External/np/pdr/cond/2002/eng/guid/092302.pdf>, and *Operational Guidance on the New Conditionality Guidelines*, 8 May 2003, available at: <http://www.imf.org/External/np/pdr/cond/2003/eng/050803.htm> (accessed: 9 February 2006).

⁸⁹ See IMF, *Code of Good Practices in Fiscal Transparency* approved by the Executive Board of Directors of the IMF on 23 March 2001 <http://www.imf.org/external/np/fad/trans/code.htm#code> (accessed: 9 February 2006).

adversely affected by the Bank's failure to follow its operational policies with respect to the design, appraisal, and/or implementation of a project financed by the World Bank. An individual Executive Director of the Bank, and the Bank's Board, may also instruct the Panel to conduct an investigation.

Upon receiving a complaint, the Inspection Panel assesses whether the complaint meets the eligibility criteria described below relating to the person of the complainant, to the subject-matter of the complaint and to the timing of the complaint.⁹⁰ However, as a preliminary condition for triggering the procedure, the Management of the Bank is asked to provide the Inspection Panel with evidence that it has already received the allegations raised in the request. The management is also asked to provide information on whether it complies with the Bank policies and procedures targeted by a complaint.⁹¹ The Panel may recommend to the Executive Directors that an investigation be carried out; if the Board authorises an investigation, the Panel conducts it, and submits its report to the Board. The Management has the possibility to comment on the findings, and the Bank then informs the affected parties of the results of the investigation and of the action taken, if any, by the Board.

Any affected group of people who share common concerns or interests in the country where the project is located may submit a request under the condition that it is possible to demonstrate that 'its rights or interests have been or are likely to be directly affected by an action or an omission of the Bank'. In defining a group of individuals who can bring a complaint, the Resolution provides in a non-restrictive manner that 'the Panel shall receive requests for inspection presented to it by an affected party in the territory of the borrower which is not a single individual (i.e., a community of persons such as an organisation, association, society or other grouping of individuals).' A group of individuals alleging to be

⁹⁰ The Resolution states as a principle that no requests will be declared eligible regarding a project after the project's loan closing date or after 95 per cent or more of the loan proceeds have been disbursed. For the interpretation of this requirement, see 'Time-Limits on the Eligibility of Complaints Submitted to the Inspection Panel', Legal Opinion of the Senior Vice President and General Counsel, July 28, 1997. More generally, on eligibility issues, see Memorandum of the Senior Vice President and General Counsel, Role of the Inspection Panel in the Preliminary Assessment of whether to recommend inspection (SecM95-11), 3 January 1995, 34 *ILM* 525 (1995).

⁹¹ Also, as a matter of principle, complaints brought for borrowing countries' misconducts do not fall within the mandate of the Inspection Panel. In addition, it should be noted that no procurement action is subject to inspection by the Panel, whether taken by the Bank or a borrower.

affected should be understood as meaning 'any two or more individuals with common interests or concerns.'⁹²

Parties may present their requests directly or through local representatives acting as the agent of adversely affected people; NGOs based in the country can take on this representation role, and international NGOs may play this role in exceptional cases where the party submitting the request contends that appropriate representation is not locally available. In such circumstances, the Executive Directors have to agree to such representation when they consider the request for inspection. It should also be noted that during the investigation, any individual or group may provide the Panel with additional information if they believe it is relevant to their request. The Operating Procedures of the Inspection Panel allow for submission by representatives of the public at large of supplemental information that they believe is relevant to evaluating the request.⁹³

In practice, most of the requests so far made to the Inspection Panel allege that the Bank has not followed its environmental and social policies and procedures. Among the most quoted are the EA policy, the indigenous peoples policy and the involuntary resettlement policy, as well as the policies dealing with the involvement of NGOs in Bank-supported activities and disclosure of operational information.⁹⁴ In addition to alleging a violation of operational policies and procedures, the complainants must demonstrate that the violation is due to an omission or action of the Bank with respect to the design, appraisal and implementation phases of a project financed by the Bank.⁹⁵

The request for inspection may relate either to a project under consideration by Bank Management, i.e. a project in the design, preparation, pre-appraisal or appraisal stage, or to a project already approved by the

⁹² See Clarifications of Certain Aspects of the Resolution Establishing the Inspection Panel (R96-204) dated 30 September 1996 and approved by the Board of Executive Directors on October 17, 1996, see fn. 81.

⁹³ On this basis, NGOs in Switzerland and in the United States submitted memoranda in the *Indian NTPC Power Generation Project*. See, R.E. Bissel, 'Recent Practice of the World Bank Inspection Panel', *American Journal of International Law* (1997), 743.

⁹⁴ See The World Bank Inspection Panel, *Accountability at the World Bank, The Inspection Panel 10 Years On* (World Bank: IMF, 2003).

⁹⁵ The Resolution refers to the 'failure of the Bank to follow its operational policies and procedures with respect to the design, appraisal and/or implementation of a project financed by the Bank (including situations where the Bank is alleged to have failed in its follow-up on the borrower's obligations under loan agreements with respect to such policies and procedures (. . .)' para. 12, see fn. 81.

Board and financed by the Bank. More particularly, with respect to the implementation phase, the Resolution specifies that a complaint can be lodged for 'situations where the Bank is alleged to have failed in its follow up on the borrower's obligations under loan agreements' with respect to operational policies and procedures. The Panel has the mandate to investigate whether the Bank has properly followed up on the carrying out by the borrower of its obligations under a loan agreement. A number of legal techniques have been developed for ensuring that policy requirements are reflected in loan agreements; they pertain to what is generally known as the notion of 'green conditionality'.⁹⁶ Techniques, such as the attachment of an implementation programme or plan of action as a schedule to the loan agreement, are used for specifying the actions to be taken by the borrower. Within the framework of its responsibilities, the Bank should exercise all due diligence required to ensure that the borrower's obligations are fully complied with in a timely fashion, i.e. that the borrowing country does abide by all its contractual obligations.

The Inspection Panel procedure is important in many respects. It contributes to the strengthening of access to justice for individuals before an international organisation and provides for preventive and remedial action for their benefit; as such, individuals are entitled to ensure that the organisation complies with its operational policies in its financial activities. The Inspection Panel in fact provides a new venue for dialogue on compliance issues between a lending institution and the direct beneficiaries of its developmental activities. The implementation of this Panel procedure has also contributed to improve the quality of Bank-financed operations. The financial institution has decided to withhold the implementation of certain projects, if not to renounce them, and has also enforced corrective measures, premised largely on the contribution of local populations. In addition, it has established within the organisation a series of mechanisms and procedures to ensure the supervision of the quality of the operations during the preparation and implementation of projects.⁹⁷

⁹⁶ See M. A. Bechechi, 'Some Observations Regarding Environmental Covenants and Conditionalities in World Bank Lending Activities', *Max Planck Yearbook of UN Law*, 3 (1999), pp. 289–314.

⁹⁷ L. Boisson de Chazournes, 'Policy Guidance'; D. Freestone, 'The Environmental and Social Safeguard Policies of the World Bank and the Evolving Role of the Inspection Panel' in A. Kiss, D. Shelton, K. Ishibashi (eds.), *Economic Globalization and Compliance with International Environmental Agreements* (London: Kluwer Law International, 2003), pp. 139–156.

Conclusion

The wide range of modes of intervention developed by the Bretton Woods institutions over the years has opened the doors to the inclusion of non-economic considerations and, among them, human rights. On the one hand, the consideration of the latter has prevented the pursuance of financing activities in some cases. On the other hand, social activities have become increasingly prominent, allowing for the promotion of human rights considerations. Debt relief strategies and the adherence to the Monterrey Consensus are important pathways towards this end.

Operational policies have been important means for operationalising human rights within the World Bank. Originally designed to provide guidance to the staff of the Bank in its operational work, these policies have been increasingly perceived as quality assessment tools in Bank operations. These instruments create normative expectations between the World Bank and the borrowing countries, and they pave the way for the consolidation of patterns of behaviour favouring the promotion of human rights. In addition, the establishment of the Inspection Panel has institutionalised the concern for quality improvement of the Bank's activities. It has provided for the possibility of remedial action taken by the Bank in the case of a violation of operational policies and procedures which has impaired the rights or interests of a group of people. As a means for promoting the right of access to justice, the Inspection Panel is an important contribution to the human rights field as individuals are granted the right to bring complaints if they believe that their interests have been impaired. More generally, it demonstrates the growing importance of the individual as a rights-holder in areas of international concern such as the environment, and development issues.

The increasingly acknowledged role of public participation, openness and transparency, alongside the establishment of accountability mechanisms, bring their contribution to strengthen the place of human rights within the activities of the Bretton Woods institutions. These diverse trends taken together emphasise the fact that there are more and more converging tendencies between the Bretton Woods institutions and the promotion of human rights.

Bibliography

- Bechechi, M. A., 'Some Observations Regarding Environmental Covenants and Conditionalities in World Bank Lending Activities', *Max Planck Yearbook of UN Law* 3 (1999), pp. 289–314

- Bhatia, M., 'Social Funds: A Review of Public Sector Management and Institutional Issues, Social Protection', Social Protection Unit, Human Development Network, World Bank, *Discussion Paper Series*, No. 0508 (2005)
- Bissel, R. E., 'Recent Practice of the World Bank Inspection Panel', *American Journal of International Law* (1997), 741–744
- Boisson de Chazournes, L., 'The World Bank Inspection Panel: About Public Participation and Dispute Settlement', in Treves, T. *et al.* (eds.), *Civil Society, International Courts and Compliance Bodies* (The Hague: TMC Asser Press, 2005), pp. 187–203
- 'Issues of Social Development: Integrating Human Rights into the Activities of the World Bank', in Institut international des droits de l'homme, *Commerce mondial et protection des droits de l'homme, les droits de l'homme à l'épreuve de la globalisation des échanges économiques* (Brussels: Bruylant, 2001), pp. 47–70
- 'Policy Guidance and Compliance: The World Bank Operational Standards' in Shelton, D. (ed.), *Commitment and Compliance* (Oxford: Oxford University Press, 2000), pp. 281–303
- Dañino, R., 'The Legal Aspects of the World Bank's Work on Human Rights: Some Preliminary Thoughts', in Alston, P., and Robinson, M. (eds.), *Human Rights and Development. Towards Mutual Reinforcement* (Oxford: Oxford University Press, 2005), pp. 509–524
- Darrow, M., *Between Light and Shadow: The World Bank, the International Monetary Fund and International Human Rights Law* (Oxford: Hart, 2003)
- Freestone, D., 'The Environmental and Social Safeguard Policies of the World Bank and the Evolving Role of the Inspection Panel' in Kiss, A., Shelton, D., and Ishibashi, K. (eds.), *Economic Globalization and Compliance with International Environmental Agreements* (London: Kluwer Law International, 2003), pp. 139–156
- Gianviti, F., 'Economic, Social and Cultural Rights and the International Monetary Fund', IMF Conference, Washington, D.C., May 7–17, 2002, available at <http://www.imf.org/external/np/leg/sem/2002/cdmfl/eng/gianv3.pdf> (accessed: 9 February 2006)
- Gupta, S., Dicks-Mireaux, L., Khemani, R., McDonald, C. and Verhoeven, M., 'Social Issues in IMF-Supported Programs', *IMF Occasional Paper* 191 (2000)
- Klein, P., 'Les institutions financières internationales et les droits de la personne', *Revue belge de droit international* (1999), 97–114
- Lane, T., Ghosh, A., Hamann, J., Phillips, S., Schulze-Ghattas, M. and Tsikata, T., 'IMF-Supported Programs in Indonesia, Korea, and Thailand: A Preliminary Assessment', *IMF Occasional Paper* 178 (1999)
- Pereira Leite, S., 'Human Rights and the IMF', *Finance and Development. A Quarterly Magazine of the IMF* 38 (2001), available at <http://www.imf.org/external/pubs/ft/fandd/2001/12/leite.htm> (accessed: 9 February 2006)

- Pierson-Mathy, P., 'L'action des Nations Unies contre l'apartheid', *Revue belge de droit international* (1973), 160–177
- Rigo Sureda, A., 'The Law Applicable to the Activities of International Development Banks', *Recueil des cours*, The Hague Academy of International Law, 308 (2004), 13–251
- Ruggie, J. G., 'International Regimes, Transactions and Change: Embedded Liberalism in the Postwar Economic Order', *International Organization* 36 (1982) 2, 379–415
- Shihata, I.F.I., 'The World Bank and Non-Governmental Organizations', in Shihata, I. F. I., *The World Bank in a Changing World. Selected Essays and Lectures*, vol. II (The Hague/London/Boston: Martinus Nijhoff, 1995), pp. 265–266
- 'La Banque mondiale et les droits de l'homme', *Revue belge de droit international*, 1999, 86–96
- The World Legal Papers* (The Hague/Boston/London: Kluwer Law International, 2000)
- 'The relationships between the United Nations and the World Bank', in I.F.I Shihata, *The World Bank Legal Papers* (The Hague/Boston/London: Kluwer Law International, 2000) pp. 808–810
- Skogly, S. I., *The Human Rights Obligations of the World Bank and the International Monetary Fund* (London: Cavendish, 2001)
- Swoboda, A., 'Reforming the International Financial Architecture', *Finance and Development. A Quarterly magazine of the IMF* 36 (1999), available at <http://www.imf.org/external/pubs/ft/fandd/1999/09/swoboda.htm> (accessed: 9 February 2006)
- World Bank Inspection Panel, *Accountability at the World Bank: The Inspection Panel 10 Years On* (Washington, D.C: IMF, 2003)