

# THE WORLD BANK AND INTERNATIONAL HUMAN RIGHTS NORMS - AN ANALYSIS

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## ABSTRACT

*On account of the impact that the projects of the World Bank have had on realization of human rights, arguments have been made for increasing the accountability of the Bank towards fulfilling international human rights norms. However, holding the Bank legally bound to international human rights law presents certain normative challenges. This paper attempts to understand whether the Bank can be held accountable for realization of internationally recognized human rights. A brief overview of the changing attitude of the Bank towards international human rights norms is provided. The paper demonstrates that while the Bank has become more amenable towards the relationship between human rights and its developmental projects, a number of legal concerns remain unresolved. In the final part, this paper argues that the principal responsibility for realization of human rights should continue to reside with states, and the role of the Bank should be complementary to that of its member states.*

## INTRODUCTION

The World Bank Group, along with the International Monetary Fund (IMF) and the World Trade Organization (WTO) are among the most powerful institutions in international economic relations. The World Bank Group consists of five entities. These include: the International bank for Reconstruction and Development (IBRD); the International Development Association (IDA); the International Finance Corporation (IFC); the Multilateral Investment Guarantee Agency (MIGA); and the International Center for Settlement of Investment Disputes (ICSID)<sup>2</sup>. Out of these legal entities the first two i.e. the IBRD and the IDA are collectively known as the World Bank. The IBRD is the largest bank in

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<sup>2</sup> For details see <http://www.worldbank.org/en/about>

the world and it provides loans, guarantees as well as advisory services to middle and low-income countries<sup>3</sup>.

On the other hand, the IDA complements the IBRD by providing loans and guarantees to the world's poorest countries on zero or very low interest charges and longer repayment periods<sup>4</sup>. The detailed purposes and functions of the two entities are listed in their Articles of Agreement. To sum up the purposes of these entities as per their Articles of Agreement include: poverty reduction by providing sustainable development through loans and grants; promote economic development, increase productivity and raise standards of living; promote foreign private investment, growth of international trade, and correct imbalances in balance of payments. The IDA complements the purposes of the IBRD while maintaining its focus on the world's poorest countries<sup>5</sup>. Thus, it is clear that the aim, especially of the IBRD, is to focus on development by providing funding for development projects as opposed to policy based purposes.<sup>6</sup> It needs to be noted that the membership to the Bank is conditional upon the membership to the IMF. It is important to emphasize that the aims and objectives of the Bank are pursued within a specific ideological framework. For the purpose of this paper the approach of the World Bank towards human rights will be discussed without involving the larger question regarding the ideological framework within which the Bank operates.

This paper will focus on the gradual change in attitude of the Bank towards issues relating to human rights. Towards this end, it will be shown that there is a linkage between the projects and policies of the Bank and issues pertaining to human rights. An overview of the changing attitude of the Bank towards human rights considerations will follow. Besides, a brief overview of the legal obligations of the Bank towards international human rights norms will be provided. The last part of the paper will deal with various legal frameworks relating to the applicability of human rights norms to the Bank.

## **IMPACT OF THE BANK ON HUMAN RIGHTS**

Before an analysis of the legal obligation of World Bank towards realization of human rights is carried out it is important to deal with a more fundamental question. Can the activities of

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<sup>3</sup> For details see <http://www.worldbank.org/en/who-we-are/ibrd>

<sup>4</sup> See <http://ida.worldbank.org/about/what-ida>

<sup>5</sup> For details see Article I of the IBRD and IDA Articles of Agreement.

<sup>6</sup> Daniel D. Bradlow (2010), *International Law and the Operation of International Financial Institutions*, pp 9-10, in Daniel D. Bradlow and David B. Hunter (eds.), *International Financial Institutions and International Law*, Kluwer Law International: Netherlands

the Bank, which are focused on achieving developmental goals, have an impact on human rights? When it comes to the impact of the World Bank on human rights a few issues merit attention. The first issue relates to the Structural Adjustment Programs (SAPs) of the World Bank. The loans granted by institutions like the World Bank and the IMF contain a list of measures that a recipient country is expected to implement in its economic policies. The Bank started to give increasing emphasis to Structural Adjustment Loans (SALs) since the 1980s, a time when developing countries were faced with increasing debt crisis due to decline in international business<sup>7</sup>. While the SAPs of the IMF focus on tariff regimes and protectionist measures, the Bank also focuses upon issues relating to good governance, corruption etc. through its structural adjustment requirements. The common thread running through the various types of SAPs is a focus on achieving a minimalist state, the idea being that such a type of state will promote economic growth, which in turn will fuel social and economic development<sup>8</sup>.

The argument may seem palatable, especially from a human rights perspective, as more often than not the state is perceived as the primary violator of human rights. According to this logic, achieving a minimalist state should serve the purpose of effective protection of human rights. However, this argument has been refuted in scholarship. For example, Jack Donnelly argues that involvement of government in economy is essential for protection of human rights<sup>9</sup>. Danilo Turk, the former UN Special Rapporteur on the Realization of economic, social and cultural Rights has supported the argument that SAPs affect human rights. In 1991 Danilo Turk argued that SAPs affected human rights like right to work, right to food and right to health<sup>10</sup>. Although SAPs have many economic benefits, they have been criticized as well, especially because of the impact they have on economic, social and cultural human rights, particularly with respect to marginalized sections of the population. Nonetheless, the controversy relating to the harmful impacts of SAPs on human rights has been laid to rest

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<sup>7</sup> Sanae Fujita (2011), *Challenges of Mainstreaming Human Rights in the World Bank*, The International Journal of Human Rights, Routledge, pp. 374-396

<sup>8</sup> For details regarding outcome of studies relating to human rights impact of governmental intervention in economy see M. Rodwan Abouharb & David L. Gingraneli (2006), *The Human Rights Effects World of Bank Structural Adjustment, 1981-2000*, International Studies Quarterly, pp 233-262

<sup>9</sup> Jack Donnelly (2003), *Universal Human Rights in Theory and Practice*, 2nd edition, Ithaca, New York: Cornell University Press, cited in M. Rodwan Abouharb & David L. Gingraneli (2006), *The Human Rights Effects World of Bank Structural Adjustment, 1981-2000*, International Studies Quarterly, pp 233-262

<sup>10</sup> See UNCHR, Realization of Economic, Social and Cultural Rights; Second Progress Report, UN Doc. E/CN.4/Sub.2/1991/17 (1991), cited in *supra* note 6

with the Bank itself acknowledging that SAPs cause difficulties for certain section of people<sup>11</sup>.

Apart from the issue of SAPs of the Bank there has been increasing focus on the approach of the Bank towards implementation of its projects. Quite often the accusations relate to the manner in which the Bank designs and implements its projects i.e. without ensuring the participation from people for whose benefit the project is designed in the first place. Of course, while pursuing this line of criticism one has to be sensitive to the fact that the projects of the Bank are designed and implemented through active consultations with the recipient state. In fact, it is the state that plays the most important role during the implementation of the project. In fact, unrepresentative state practices are often cited as a defense by the Bank for the negative impacts its projects have in certain cases. Apart from the non-participatory nature of Bank projects there is the issue of undesirable effects that many projects generate. These include dislocation of large number of people, loss of livelihood, negative impact on environment etc.<sup>12</sup>. A case in point is the project relating to the construction of Sardar Sarovar Dam on the Narmada River in Gujarat. The social movement opposing the construction of the dam necessitated a change in the policy of the Bank towards the way its projects are implemented and resulted in the creation of the World Bank Inspection Panel.

## **DOES THE BANK HAVE HUMAN RIGHTS OBLIGATIONS?**

Now that a case has been made that the Bank's policies and projects impact human rights a corollary question that arises is whether the Bank has obligations to protect and promote human rights? One way of looking at this question is through a moral standpoint. If the policies of the Bank impact upon human rights of people, especially the ones belonging to marginalized sections of the society, then there is a corresponding moral obligation on the Bank to rectify the same. The other available option is to argue that the Bank has legal obligations to protect and promote human rights. This is a sensitive terrain as this line of reasoning demands that the Bank be held accountable (in legal sense) for the any negative impact its projects have on human rights. This section provides an overview of the legal responsibilities of the Bank relating to the protection and promotion of human rights.

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<sup>11</sup> Ibrahim F. I. Shihata, *The World Bank in a Changing World: Selected Essays*, Vol. 1, 134, cited in supra note 6.

<sup>12</sup> See e.g. Mumbai Urban Transport Project (2006) of the World Bank. The project involved displacement of people, affecting their livelihood, and the unsuitability of relocation sites. The project was subsequently investigated by the World Bank Inspection Panel.

## SEPARATE LEGAL PERSONALITY

In order to assess the human rights implications of the Bank it is important to note that the Bank has a separate and distinct international legal personality. Can the loan and credit agreements between the Bank and recipient states be treated as international agreements, thus governed by international law?<sup>13</sup> Since the Bank has a distinct legal personality as compared to its constituent members, it does possess rights and duties under general international law<sup>14</sup>. Thus, a case can be made that the Bank is bound by the principles of general international law, especially those relating to customary international law<sup>15</sup>. However, while pursuing this line of thought it is also important to recognize that there are certain issues that remain unresolved. In the first place, customary law in relation to human rights is either not specific in terms of responsibilities of duty holder or identifies states as the entities against which rights can be claimed. For instance, the Universal Declaration of Human rights is said to have attained the status of customary international law.

However, as Daniel Bradlow argues the provisions of UDHR are framed as general principles. It was thought that they would be eventually elaborated and made specific through treaties<sup>16</sup>. In case of treaty law instruments like the International Covenant on Civil and Political Rights as well as International Covenant on Economic Social and Cultural Rights identify state as the primary duty holder as far as implementation of human rights is concerned. Furthermore, the issue of fixing responsibilities for violations of human rights between the Bank and its member states presents another challenge. This is on account of two main reasons. First, a member state may not be a party to the relevant human rights instrument<sup>17</sup>. Secondly, most programs of the Bank are implemented with close coordination with the recipient states. Under such circumstances identifying the specific responsibility of the Bank with respect to instances of violations of human rights is a challenging task.

## THE BANK AS A SPECIALIZED AGENCY OF THE UN

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<sup>13</sup> For details see John W. Head (1996), *Evolution of the Governing Law for Loan Agreements of the World Bank and Other Multilateral Development Banks*, The American Journal of International Law, Vol. 90 Issue 02, pp 214-234

<sup>14</sup> See for example the ICJ Advisory opinion in *Reparation for Injuries Suffered in the Service of the United Nations*, available at <http://www.icj-cij.org/en/case/4/summaries>

<sup>15</sup> *Supra* note 6

<sup>16</sup> *Supra* note 5

<sup>17</sup> See Galit A. Sarfaty (2009), *Why Culture Matters in International Institutions: The Marginality of Human Rights at the World Bank*, American Journal of International Law, Vol. 103 No. 04, pp 647-683

The Bank is a specialized agency of the United Nations. It has entered into a relationship agreement with the UN that governs its relationship with the United Nations<sup>18</sup>. Certain points relating to the relationship agreement between the Bank and the UN deserve to be mentioned. First, the United Nations recognizes that it will refrain from making recommendations to the Bank with respect to the loans that the Bank issues or terms and conditions that the Bank drafts for granting loans<sup>19</sup>. Second, as per the relationship agreement the Bank is not bound by the instructions issued by the United Nations, except the obligations assumed under Chapter VII of the UN Charter<sup>20</sup>. Therefore, as per the relationship agreement the Bank is only bound by the resolutions of Security Council passed under Chapter VII of the UN Charter. Despite the presence of these provisions it can be argued that being a specialized agency of the United Nations the Bank is bound (in terms of negative obligations) by the principles contained in the United Nations Charter. One such principle is enumerated in Article 55 of the UN Charter that provides that the United Nations shall promote “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion”.<sup>21</sup> Thus, the Bank is bound to follow the UN Charter, at least as far as the negative obligation of not violating human rights is concerned<sup>22</sup>.

## NEXUS BETWEEN ‘DEVELOPMENT’ AND HUMAN RIGHTS

As is evident from the Articles of Agreement of the IBRD and IDA the principal focus of the Bank is on development. Whether human rights should be included as an integral part of development or dismissed on account of their political nature depends upon the concept of development one follows. One option is to link development solely with economic growth. In fact, the Bank has been criticized for adopting a very narrow understanding of development that focuses merely on economic growth<sup>23</sup>. There are alternative concepts of development, one of them being the Sen’s concept of development as freedom<sup>24</sup>. According to Sen

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<sup>18</sup> See *Agreement Between the United Nations and the International Bank for Reconstruction and Development (1947)*, available at <https://treaties.un.org/doc/Publication/UNTS/Volume%2016/v16.pdf>

<sup>19</sup> See Article IV (3) of the Agreement Between the United Nations and the International Bank for Reconstruction and Development

<sup>20</sup> See Article VI (1) of the Agreement Between the United Nations and the International Bank for Reconstruction and Development.

<sup>21</sup> *Supra note 16*

<sup>22</sup> Ascertaining the specific responsibility of the Bank for violation of human rights will present additional difficulties as projects of the Bank are a joint exercise between it and the recipient state.

<sup>23</sup> For details regarding the approach of Bank towards human rights see Francine Menashy (2013), *Interrogating an omission: the absence of a rights-based approach to education in World Bank policy discourse*, Discourse: Studies in the Cultural Politics of Education, pp. 34:5, 749-764

<sup>24</sup> See Amartya Sen (1999), *Development as Freedom*, Oxford University Press: New Delhi

development is a process that results in the enhancement of actual freedoms a person enjoys. This concept of development is also reflected in the 1986 UN Declaration on Right to Development. Article 1 of the said declaration provides:

*The right to development is an inalienable right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.*

Therefore, it is clear that development can no longer be seen through the narrow prism of economic growth. On the contrary, the concept of development is inextricably linked to the realization of human rights.

## **ATTITUDE OF THE BANK TOWARDS HUMAN RIGHTS**

For a long time the Bank was reluctant to acknowledge that issues relating to human rights were part of its projects. The defense of this attitude included the argument that the Bank was not a party to human rights instruments and its focus was limited to development. Human rights were seen as belonging to political domain, an area where the Bank is prohibited to tread because of its Articles of Agreement. Two provisions of the Articles of Agreement of the IBRD need to be focused upon. These include Articles IV Section 10 and Article III Section 5(b). The former article is of critical significance and deserves to be quoted in full. Article IV Section 10 provides:

*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 I.*

Similarly, Article III Section 5 (b) provides that the Bank while monitoring the proceeds of any loan shall not consider “political or other non-economic influences or considerations”. These Articles prohibit the Bank from taking political factors into consideration while discharging its functions. Since human rights were understood to be within the domain of politics the Bank used to argue that it is prohibited from taking human rights considerations

into account. In any case, whenever the bank dealt with criticism relating to human rights, it understood such criticism as relating to its dealings with governments with a questionable human rights record<sup>25</sup>.

## THE BANK OPENS UP TO HUMAN RIGHTS CONSIDERATIONS

After the initial reluctance of the Bank to accept obligations relating to protection of human rights, it gradually adopted a more accommodative attitude towards human rights. This change was bought about by the mounting criticism relating to the impact of its policies concerning human rights. The 1998 report of the Bank titled *Development and Human Rights: The Role of the World Bank* clearly states that, “The Bank contributes directly to the fulfilment of many rights articulated in the Universal Declaration”<sup>26</sup>.

The impact of certain personalities working with the Bank also played an important role in this regard. These include James Wolfensohn who was the President of the Bank from 1995-2005<sup>27</sup>; Ibrahim Shihata and Roberto Danino who were General Counsels of the Bank from 1983-1998 and 2003-2006 respectively. Consider the address that World Bank President Wolfensohn gave to the Board of Governors in 2000. In this particular address, he said:

*“There is, moreover, widespread recognition of the strong link between human rights and development . . . The Bank’s work substantially contributes to the realization of rights of people in a number of areas, such as health, education, gender, participation, accountability, environment, institutional reform activities and, above all, the fight against poverty itself as a fundamental denial of human rights . . . The Bank is currently reviewing its role with a view to making a more explicit link between human rights and our work, while at the same time remaining fully in compliance with our Articles of Agreement ”*<sup>28</sup>.

With Ibrahim Shihata as its General Counsel the Bank used non-literal interpretation of its Articles of Agreement to expand its functions. Therefore, issues relating to population, health, women’s empowerment and governance have found a place in the concerns of the

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<sup>25</sup> *Supra* note 6

<sup>26</sup> The report is available at <http://siteresources.worldbank.org/BRAZILINPOREXTN/Resources/3817166-1185895645304/4044168-1186409169154/08DHR.pdf>

<sup>27</sup> For details regarding human rights initiatives in this era refer to *supra* note 16

<sup>28</sup> See John Wolfensohn, ‘*Building an Equitable World*’, Address to the Board of Governors, Prague, Czech Republic, 26 September 2000, p. 4, cited in *supra* note 6

Bank<sup>29</sup>. Shihata made it possible for the Bank to broaden its mandate and include political considerations within its area of focus. He opined that any activity that had a ‘direct, preponderant and clear effect’ on the country’s economic development could be treated as falling within the scope of the Bank’s activities<sup>30</sup>. Therefore, through the process of interpretation the Bank could venture into political issues if they had a direct, preponderant and clear effect on the country’s economic development. On the other hand, Roberto Dan˜ino (former general council at the Bank) went a step ahead and declared that human rights are a part of Bank’s mission. According to Dan˜ino the Articles of Agreement of the Bank require that human rights aspects of Bank’s policies should be considered because it was evident that human rights formed an essential part of Bank’s mission<sup>31</sup>.

The common thread running through these statements is that the Bank is a promoter of human rights. This means that the job of the Bank is supplementary to that of the state, which is the primary duty holder in international human rights law. Therefore, while the Bank opened up to human rights it visualized itself as a promoter of human rights and did not accept the argument that international human rights law was binding upon it. Nevertheless, one has to concede that the Bank has come a long way as far as its approach to human rights is concerned. This is evident from a general survey of the role of the Bank with respect to International Covenant on Economic Social and Cultural Rights (ICESCR). When the ICESCR was being drafted the Bank was invited to participate in the process leading to adoption of the Covenant. The Bank refused to participate in the process citing the political nature of human rights, something that its Articles of Agreement prohibit to get involved in. However, now the Bank regularly participates in the meetings of Committee on Economic Social and Cultural Rights<sup>32</sup>.

## **THE WORLD BANK INSPECTION PANEL**

The creation of the World Bank Inspection Panel highlights the change in attitude of the Bank towards human rights. “The Inspection Panel is an independent complaints mechanism

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<sup>29</sup> Ibrahim F.I. Shihata (1997), *Democracy and Development*, The International and Comparatively Law Quarterly, cited in B. S. Chimni (2010), *International Financial Institutions and International Law: A Third World Perspective*, in Daniel D. Bradlow and David B. Hunter (eds.), *International Financial Institutions and International Law*, Kluwer Law International: Netherlands

<sup>30</sup> See Ibrahim F Shihata, *The World Bank and “Governance” Issues in Its Borrowing Members*, cited in *supra* note 5

<sup>31</sup> Roberto Dan˜ino (2006), *Legal Opinion on Human Rights and the Work of the World Bank*, cited in *supra* note 16

<sup>32</sup> *Supra* note 6

for people and communities who believe that they have been, or are likely to be, adversely affected by a World Bank-funded project”<sup>33</sup>. The Inspection Panel is a three-member body and “aims to promote accountability at the World Bank, give affected people a greater voice in activities supported by the World Bank that affect their rights and interests, and foster redress when warranted”<sup>34</sup>. The Inspection Panel evaluates the projects of the Bank on the basis of standards set forth in the internal policy guidelines of the Bank. Such guidelines relate to environmental protection, issues relating to livelihood, rights of indigenous peoples, and rights relating to cultural heritage into consideration<sup>35</sup>. Thus, the Inspection Panel works on the basis of policy guidelines laid down by the Bank and not on international human rights norms. Even though the focus is on Bank’s own social and environmental policies, this is a major step forward in the sense that any two persons or an NGO on their behalf can directly approach the Panel and initiate investigations into the compliance of the Bank with its internal policy guidelines. Besides, in many cases the internal policy guidelines of the Bank are similar to international human rights standards.

However, the Inspection Panel has attracted a share of criticism as well. The criticism leveled against the Panel can be summarized in the following points<sup>36</sup>:

- a. Inability of the Panel to grant relief or injunctions. The Panel can only report whether the Bank’s guidelines have been complied with or not. It has no authority to recommend what relief should be granted or issue other related injunctions.
- b. The Panel suffers from jurisdictional limitations. It can only investigate the Bank and not the borrower state, which is in effective control of the project.
- c. Once the complaint has been filed with the Panel the complainants cannot effectively follow up the process of their complaint.
- d. Even though the Panel is an independent from World Bank management and staff it is an internal body of the Bank. It reports to the Board of Executive Directors.

Despite the criticism the establishment of the Panel is a major step forward in the reorientation of the bank towards its policies with respect to human rights<sup>37</sup>.

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<sup>33</sup> See World Bank Inspection Panel *About Us*, Available at <http://ewebapps.worldbank.org/apps/ip/Pages/AboutUs.aspx>

<sup>34</sup> *Ibid*

<sup>35</sup> *Ibid*

<sup>36</sup> The summary is based on an article by Enrique R Carrasco & Alison K Guernsey; for further details see Enrique R Carrasco & Alison K Guernsey (2008), *The World Bank's Inspection Panel: Promoting True Accountability Through Arbitration*, Cornell International Law Journal, Vol. 41 Issue 3, pp 577-629.

## A WAY FORWARD

So far, this paper has sketched an overview of the gradual changes in the attitude of the Bank towards issues relating to human rights. The Bank has come a long way as far as acceptance of human rights considerations is concerned. So, suggestions regarding further sensitizing the Bank towards human rights issues should not be understood as unfair cynicism. Rather, they should be construed as the next logical step in enabling the Bank to play a more effective role in making a real and meaningful impact on the lives of people for whom its projects and policies are engineered.

Two approaches deserve attention here. The first approach is to argue that international human rights law is binding on the Bank. Thus, this approach entails that the Bank be held legally bound by international obligations relating to human rights as contained in relevant international treaties. As mentioned above in this paper, an obvious issue that presents itself is the Bank is not a party to international human rights instruments. However, principles of customary international law can be made applicable to the Bank through this approach. Closely related with this approach is the idea of mainstreaming human rights within the working of the Bank. This approach has two dimensions: 1. Human rights are to be realized independently of other goals of the Bank, and 2. Human rights should act as guiding principles for the working of the Bank<sup>38</sup>. However, difficulties are most likely to arise at operational level e.g. in ascertaining the specific responsibility of the Bank for violations of human rights. Moreover, additional difficulties will manifest because making the Bank accountable for violations of human rights is closely related to the field of law relating to accountability of international organizations<sup>39</sup>.

The second approach is to shift focus from the Bank to its member states. As of now the states are the primary duty holders in international human rights law. The obligations that the states have undertaken with respect to protection of human rights do not end when they join international institutions. Despite the fact that many international organizations have a legal personality that is distinct from their member states, the latter cannot use it as a shield to

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<sup>37</sup> For the role of Inspection Panel in normative development of human rights see Andria Naudé Fourie (2012), *The World Bank Inspection Panel's Normative Potential: A Critical Assessment, and a Restatement*, Netherlands International Law Review, 59(2), 199-234

<sup>38</sup> Supra note 6

<sup>39</sup> In 2011 the International Law Commission (ILC) drafted the draft Articles on Responsibility of International Organizations. Available at [http://legal.un.org/ilc/texts/instruments/english/draft\\_articles/9\\_11\\_2011.pdf](http://legal.un.org/ilc/texts/instruments/english/draft_articles/9_11_2011.pdf)

escape from legal obligations they have undertaken as parties to international human rights instruments. According to Article 28 of the International Law Commission (ILC) draft Articles on Responsibility of International Organizations a state will incur international responsibility for violating its international legal obligations even in the capacity of a member of an international organization. This can happen if the said state provides competence to the organization to deal with issues that closely relate to the obligation undertaken by it, and the organization while dealing with such issues commits an act or omission that results in violation of that obligation<sup>40</sup>. In context of applicability of human rights law to international financial institutions Siobhan McInerney-Lankford argues “that the eagerness to assign direct obligations to IFIs, particularly from non-treaty sources, has set the debate back because of the limitations attending those sources, deflecting attention from the relevant established obligations of states under human rights treaties”<sup>41</sup>. Thus in case of this approach, the role of the Bank would be to assist states in realization of human rights, though it would have a corresponding negative obligation not to violate human rights.

While both the approaches mentioned above have their respective advantages and drawbacks, the latter approach seems to be more workable at present. Thus, a two-pronged approach may offer the requisite solution. The efforts to develop a legal framework within which the Bank would be bound by international human rights law is always welcome and should continue. Till the results of this approach emerge in the form of a concrete and specific legal regime the second approach (i.e. where states are held to be the primary duty holders for fulfilling human rights obligations and the Bank’s role is supplementary to that of its member states) seems more pragmatic and should receive increased focus from scholars and policy makers.

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<sup>40</sup> See Article 28 of the ILC Draft Articles on Responsibility of International Organizations. Also see B. S. Chimni (2010), *International Financial Institutions and International Law: A Third World Perspective*, in Daniel D. Bradlow and David B. Hunter (eds.), *International Financial Institutions and International Law*, Kluwer Law International: Netherlands

<sup>41</sup> Siobhan McInerney-Lankford (2010), *International Financial Institutions and Human Rights: Select Perspectives on Legal Obligations*, in Daniel D. Bradlow and David B. Hunter (eds.), *International Financial Institutions and International Law*, Kluwer Law International: Netherlands