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# Human Rights, the World Bank and the Washington Consensus: 1949-1999

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## GLOBALIZATION AND HUMAN RIGHTS: DOES ONE HURT THE OTHER?

The panel was convened at 8:00 p.m., Thursday, April 6, by its Chair, Samuel Murumba, Brooklyn Law School, Brooklyn, NY, who introduced the panelists: James Gathii, Rutgers University School of Management, Newark, NJ; Robert Howse, University of Michigan Law School, Ann Arbor, MI; and Anne Orford, University of Melbourne, Australia.

### HUMAN RIGHTS, THE WORLD BANK AND THE WASHINGTON CONSENSUS: 1949–1999

by James Gathii\*

#### *From "Innocence" to Crisis*

In the late 1960s and early 1970s, the position adopted by the World Bank's senior management on the role of the World Bank in relation to the international bill of human rights faced serious scrutiny from critics of the impact the development projects the Bank supported. Simply put, this position that was now in crisis held that the World Bank's Articles of Agreement did not provide sufficient institutional elasticity to accommodate a larger role and responsibility in the field of human rights for the World Bank beyond its financial and economic mandate.

In accordance with this position, senior management at the Bank, especially within the General Counsel's office, argued that the objectives of the international bill of rights could only be achieved at the expense of the Bank's functions under its Articles of Agreement. A major aim of my analysis is therefore to examine the crisis surrounding the continued tenability of the classical position that the Bank's mandate is insufficiently flexible to accommodate what are represented as political and social objectives outside its mandate. In doing so, I examine various challenges and responses to this classical position. I argue that the Bank's classical position now co-exists alongside positions held both within and without the Bank that are substantially dissimilar.

This argument discounts what appears to be a dominant reading of the Bank's accommodation of elements of the international bill of human rights within its good governance rhetoric especially in the mid to late 1990s. This reading of the role of the Bank that I seek to discount is told as a story of progress and evolution from the classical to an enlightened position. Instead, I argue that the Bank's Articles of Agreement and the international bill of rights both provide a sufficiently open-ended interpretive arena for the continued redefinition of the role of the Bank and rights in its work. This possibility of ambiguity in interpreting and reinterpreting the Bank's Articles of Agreement and the international bill of human rights simultaneously empowers and disempowers those involved in this interpretive and strategic work as each side of the countervailing agendas constructs its case. In particular, I argue that human rights activists who support a larger role for the Bank in the protection of human rights have their goals constantly redefined by reference to the Bank's invocation of its classical position. It is this strategic engagement of rights work that has a disempowering effect on human rights activism: the fact that these rights claims have to be redefined or reconciled by finding complementarity and compatibility with the economic policies of the World Bank. Consequently, human rights activists who have sought to use human rights as a means of demanding the World Bank to adopt an approach to development that is more humane, are constantly disappointed by the continued redefinition of their rights claims with countervailing rights claims mediated through reference to the background assumptions of the classical interpretation of the Bank's mandate.

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*The Classical View in Crisis*

The classical view of the Bank's mandate came under heavy scrutiny in the late 1960s and early 1970s when the prevailing developmental consensus adopted by the World Bank was facing a serious legitimacy crisis. The persistence of poverty amid increasing affluence, the increase in unemployment despite increasing production, and in general, the failure to ameliorate the condition of people in the poorest countries of Africa and Asia brought development defined in terms of economic growth considerable disrepute. This was exacerbated by the accompaniment of economic growth with increasing ecological disasters such as the devastation of tropical rain forests and mountain watersheds. In addition, increasing tendencies towards authoritarianism and civil conflict in developing countries challenged the efficacy of development defined as economic growth.

In this period, human rights advocacy challenged the World Bank's adherence to the position that it had no mandate to engage in human rights issues. Human rights advocates argued that the World Bank was obliged to play a positive role in support of human rights in the development projects it supported in at least two ways: first, by advocating that the Bank adopts a human rights agenda which supported economic policies to satisfy support of basic needs such as health, shelter, education, and clothing; and, second, activists in this period lobbied to have the World Bank integrate environmental protection as a central part of its development initiatives.

However, it was not until the late 1980s that the advocacy movement for human rights reached its climatic conflict with the Bank's classical position. This was the period during which the Bank started implementing its socially disastrous Washington consensus which privileged the market as the locus of economic decision making. Consequently, the Bank promoted programs aimed at privatizing the provision of basic social services such as health, education, and housing. There was reduced social spending as resources were reallocated to the private sector which the Washington Consensus favored as the engine of growth that would bring developing countries from their isolation towards an integrated global economy. Hence, a major aim of the Washington consensus was also to deregulate and liberalize the economy as a way of scaling back the powers of the state.

*From Basic Needs to the Washington Consensus*

The basic needs approach or critique of development defined as economic growth sought to transform the prevailing World Bank orthodoxy by making welfare demands defined in terms of basic needs and rights from the state and institutions of development. By formulating welfare demands in terms of rights, as opposed to needs, human rights activists sought to add credibility to these demands by clothing them in the moral credibility associated with human rights struggles. However, the World Bank was scarcely persuaded that cloaking the basic needs approach to development in rights rhetoric adds any useful challenges to its development programs. By the end of the 1980s, development programs justified as part of the Bank's basic needs development strategy in the 1970s were quickly being eroded and displaced by elements of the Washington consensus.

The Washington consensus in effect reversed the gains of the basic needs/rights advocacy of the late 1960s and most of the 1970s and 1980s since development was now redefined as increasing levels of economic growth rather than as meeting the basic needs of individuals. In the 1980s therefore, rights activists were not merely lobbying the Bank to adopt basic needs as a central part of its development initiatives, but rather to put in place social safety nets to mitigate the suffering caused by the reform process of the Washington consensus.

The rationale for adopting social safety nets as a strategy for human rights advocacy was based on the following assumption: the Washington consensus was so determined to free the accumulation of wealth from all political controls, including those related to income distribution embraced in the provision of social services, that calling for its discontinuation was

unrealistic. The Washington consensus was here to stay and any proposals that compromised the freeing of accumulation of wealth were not politically possible.

In an apparent response to the Bank's reticence to tinker with its commitment to accumulation of wealth by the private sector as the best strategy for economic growth, human rights activists entered another phase of engaging the role of human rights in the work of the World Bank. While continuing to demand basic needs and basic rights from the state and institutions of development, these activists developed a novel strategy of getting a human rights agenda on the bandwagon of the Washington consensus.

The strategy was based on finding complementarity and compatibility between human rights advocacy and the economic policies of the World Bank rather than in demanding that the World Bank adopt an approach to development that was more humane. In adopting this approach, human rights activists aligned themselves with the World Bank's new economic policies and the often repeated requirement that any human rights agenda within the Bank must be consistent with its financial and economic mandate. Seen against the basic needs and basic rights initiatives of the earlier period, this concession for a limited role for human rights in the World Bank's activities has had the effect of severely constraining the activists' agenda to lobby the Bank to expand its initiatives in the arena of human rights. The World Bank has embraced this strand of human rights advocacy since it is circumscribed within its Articles of Agreement.

#### *An Interpretation*

My reading of the World Bank's adoption of a limited place for human rights within its programs under the rubric of good governance is as follows: good governance constitutes a political compromise which provides an avenue through which those who continue to lose out under the stringent economic programs of the Washington consensus can consent to their losers of economic reform control by the owners of the means of production. Human rights and political democracy, insofar as they have become a part of the conservative economic commitments of the Washington consensus, are instruments of legitimation that permit groups that lose out in the economic reform process to press their claims to the allocation of resources and the distribution of output, even when the economic system is being shut out from addressing these claims. Yet, paradoxically the liberties protected by the commitments to human rights and political democracy in the good governance agenda also give the politically disenfranchised citizenry liberties that it was often denied under the authoritarianism that accompanied the developmentalism of the 1970s and 1980s.