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國際金融機構之善治策略與人權提倡間的聯結：以世界銀行為例

Nexus of Good Governance Strategy and Human Rights Advocacy in International Financial Institutions: A Case Study on the World Bank*

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中文摘要

本文以世界銀行的善治策略為例，檢視國際金融機構之援助政策與人權倡議之間的相容性與衝突性。世銀自1990年代採行旨在結合人權保障之善治策略，即將政治及治理因素納入給予貸款的決策考量當中。儘管世銀調整過去僅重視經濟成長的援助思維，但該策略在執行上仍無法顧及受援國發展過程中的人權問題，致使僅有那些與世界銀行發展計畫相容之人權議題始獲得支持。這些計畫仍偏重投資、成長與生產力而犧牲社會福利。結論顯示善治策略忽略調整計畫之優先順序，如考量平等重於成長。當前策略僅藉由擴大當地團體與居民的參與來重新執行那些按既有思維制定之計畫。故世銀須全面檢視發展政策與提倡人權間的失衡與衝突，並建立與保障社會權利相容的援助模式；另世銀策略改變對受援國當地菁英之利益及其對社經發展之規劃所產生的衝擊，恐怕是後者極欲抗拒的。

關鍵詞： 國際人權、善治、世界銀行、援助條件、國際金融機構、發展政策。

I. INTRODUCTION

This paper focuses on the limits and impacts of human rights advocacy as promoted by international financial institutions, especially the World Bank's efforts to precede its good governance strategy of integrating human rights into the growth oriented neo-liberal economic policies of the 1990s. This effort flows from the belief promoted by human rights activists that international financial apparatuses might be infused with a social conscience and that development programs must be humanized. However, these initiatives paradoxically seem to share a confidence in the positive potential of the present commitment in national and international institutional apparatuses towards "development." Furthermore, this includes the assumption that these institutions need only tinker with their present design, implementation, or procedures in order to humanize development programs and turn them away from their preoccupation with materialistic values; such as economic growth.

From the perspective of the World Bank (the Bank hereafter), through its good governance agenda, human rights advocacy has adopted an approach based on finding complementarity and compatibility between its goals and the economic and financial policies of the Bank. This approach was popularized by the desirability of abandoning a hostile or uncompromising position towards neo-liberal economic policies in particular and the ascendancy of international capitalist economic policies in general. Neo-liberal economic policies are mainly preoccupied with displacing statist regulatory interventions in the market place while integrating national economies into the international market economy with little or no constraints on the flow of international capital (Ruggie, 1982: 379~415; Brawley, 1998: 276; Cassen, 2002: 15; Cohn, 2003: 31, 215~216; Spero and Hart, 2003: 192~195). Neo-liberal economic reform is also characterized as the key to achieving human rights actors' goal of finding development policies that acknowledges the centrality of welfare concerns alongside the imperatives of growth.

The remainder of this paper is divided into six sections. Following a brief theoretical overview regarding the relations between human rights norms and international organizations, I examine the rise of the welfare needs of development as defined as economic growth within the framework of the World Bank. This traces the attempts of international human rights activists to promote humanitarianism in the Bank's development policy. This paper then analyzes those activists' efforts to replace the Bank's growth-oriented projects with what they perceive to be a compelling and authoritative discourse of rights. Next, I critically evaluate how the rise of the good governance agenda in the 1990s eclipsed the initiatives to give the WB's projects a social character. I also demonstrate how the institutional mandate of the Bank has become the template for justifying only those claims for rights which are consistent with a development policy that gives priority to returns to investment, growth, productivity and profit at the expense of social welfare entitlements. Finally, I conclude by arguing that the good governance strategy defined in terms of economic growth, unfortunately, shares a belief in the positive potential of the Bank's present arrangements and its commitment to development. I question this strategy by pointing out the assumption, held by the key actor, that to repair the limits and flaws discovered in its development policy all that needs to be done is to minimally tinker with Bank and other international financial institutions by redesigning their priorities without giving up the priority of growth over equity concerns or to merely rearrange the implementation of their pre-designed development programs by incorporating citizen participation and consultation. The key to real reform is to thoroughly review this institutional myth and to establish certain pre-conditions which are necessary for the emergence of the development of programs that are truly emancipatory after taking into consideration the deep inequalities of wealth, gender, sex, race, power and influence in national and international societies.

II. THEORETICAL FUNDAMENTALS: HUMAN RIGHTS NORMS AND INTERNATIONAL ORGANIZATIONS

International financial institutions, such as the Bank, aim at strengthening governing and political conditions associated with human rights norms in developing countries and improving the effectiveness of aid. These institutions then provide a critical assessment of the Bank's approach to governance reform in recipient countries. What accounts for the deepening of human rights norms and democratic conditionality in international organizations and what sets it in motion? Who are the key actors propelling the process and under what conditions is it most likely to occur? Unfortunately, we still know very little about the evolution of international human rights norms because, as Schmitz and Sikkink (2002: 528) observe the subject "has not (yet) featured as a major research question for international relations theorists." Moreover, the deepening of human rights norms and democracy is puzzling because it is costly. It subjects states to closer scrutiny and, in some cases, even punishment.

In the literature of international relations, scholars are just coming to grips with questions of institutional change. For a long time, scholarly debates on international relations have focused on the emergence and effects of international institutions. Institutional change has been largely absent from the analysis. Moreover, other theoretical traditions do not offer as much support as one might hope. Various forms of historical institutionalism in the literature are better at explaining institutional continuity than institutional change. This situation is beginning to change. Finnemore and Sikkink published an influential and analysis on the "life cycle" of norms in 1998, and the reputed journal of International Organizations published a special issue on legalization in 2000, an important form of institutional change. Most of the observed deepening of human rights and democratic considerations can be labeled as legalization.

Moreover, whether and how human rights norms influence states is a matter of sharply contrasting views among theorists. Realists are quite skeptical of the influence of international institutions for well-known reasons, including fear of cheating, state concerns for relative gains, and the brute fact that states simply have more resources than transnational or intergovernmental actors (Mearsheimer, 1994). From a power perspective, we should not expect unwanted norms such as human rights to have much influence over states. States have no natural incentive to cooperate with other states on human rights, and human rights groups have few material resources to induce compliance.

Constructivists and "world polity" sociologists, on the other hand, argue that international institutions can have a profound effect on state practices, even in difficult issue areas such as human rights (Risse, Ropp and Sikkink, 1999; Meyer, Boli, Thomas, and Ramirez, 1997; Finnemore and Sikkink, 1998). In this view, "States are embedded in dense networks of transnational and international social relations that shape their perceptions of the world and their role in that world. States are socialized to want certain things by the international society in which they and the people in them live" (Finnemore

1996, 2). Recent constructivist theories meet realists half-way by arguing that states inhabit both material and social environments (Finnemore and Sikkink, 1998; Risse and Sikkink, 1999). States undoubtedly desire economic and military power, as realists insist, but they also interact within a web of social understandings and norms, and want to be accepted as legitimate and equal actors within this environment. Realizing this fact, transnational actors socialize states into adopting international norms through a combination of social, political and economic pressure, rational discourse and advocacy, and a gradual process of domestic institutionalization (Risse and Sikkink, 1999). States respond to these methods because of their interests in maintaining their power, their identities as states, and their desire to be included as legitimate members of the international community.

Both realists and constructivists predict that the influence of international institutions is relatively uniform across different states, though in very different ways. Realists suggest that institutional influence is uniformly close to zero while constructivists emphasize that institutions have a strong and homogenizing effect on all states.

Transnational activists of nongovernmental organizations (NGOs) and their allies are key actors responsible for creating, monitoring, and promoting these unwanted norms. As defined by Keck and Sikkink, transnational advocacy networks consist of groups and individuals bound together by common principles, values, and discourse who exchange information and resources in a nonhierarchical, voluntary, and reciprocal manner (Keck and Sikkink, 1998: 2 ~10). Human rights advocates often include social change organizations, research organizations, churches, intellectuals, intergovernmental organizations, charitable foundations, and other groups working for normative change. Although international organizations or states themselves are not members of networks, certain state bureaucracies or officials may work closely with networks, and state policy can provide crucial support for network goals. NGOs operate by lobbying and persuasion, by mobilizing information rapidly, and by using any available material leverage to pressure states to conform to human rights norms.

This paper adopts constructivist arguments that international institutions can have powerful socializing effects on its member states and relevant sovereignty, but I reject the implication that all states are equally susceptible to socialization. Rather, certain institutional characteristics of states constitute key condition variables that determine the extent of human rights norms and its influence on policies of international organizations. In this view, which fits with a liberal approach to international relations, we should expect significant variation in institutional responses to policy change and norm legalization even when pressures to comply are uniformly quite high.

III. BUILDING A NEXUS BETWEEN HUMAN RIGHTS AND DEVELOPMENT

In face of the radicalizing effects of the interdependence of international economic relations, traditional conceptions of sovereignty and statism are eroding. However, they are still defended by international financial institutions such as the World Bank and the International Monetary Fund (IMF). The Bank bases its position on its constituent instrument, the Articles of Agreement setby the International Bank of Reconstruction and Development (IBRD), to support the view that human rights are a political issue which fall outside of the World Bank's mandate unless that mandate can be defined in a technical or functional mode in order to fit within the economic and financial goals of the Bank.[1] This means that the Bank, as well as human rights supporters working within and outside the Bank, must reconcile human rights initiatives with the Bank's economic and financial goals. Because human rights activists have been left with little choice other than to reconcile their agenda with the economic and financial mandate of the Bank, this has resulted in the "sullying" of their otherwise idealistic positions. In this sense, they have lost some of their credibility as an independent critic of the Bank and its development policies.

Since the 1970s, international human rights activists have sought to ground the basic needs approach within the framework of "rights" as opposed to "needs". In effect, they have sought to substitute rights for needs and as such transform the basic needs doctrine from an apolitical concept into a just and political entitlement (Amnesty International, 1998). As one international human rights scholar at the time asserted "a particular social claim is a human right is to invest it emotionally and morally with an especially high degree order of legitimacy" (Bilder, 1969: 1~3). Human rights activists have also argued that meeting the welfare needs of citizens through beneficial or remedial programs is important. They further emphasized that "policies and programs that were based on a perception of need and powerlessness, reinforced the powerlessness of the recipients who are being given justice rather than as receiving their rights. Recognition of entitlement is itself an act of empowerment" (Human Rights Council of Australia, 1995: 30).

A central feature of international human rights advocacy is therefore aimed at demonstrating that "respect for human rights must be an integral part

1. See Article 4, section 10 of the Articles of Agreement of the IBRD as amended effective February 16, 1989. IBRD. 1991. Articles of Agreement Washington D.C.: World Bank (August).

of the development process and that economic, social and political factors cannot be treated in isolation" (Alston, 1989: 1). In furtherance of this position, it was advanced that these human rights would best be realized if linked to the development projects of the Bank. This involved campaigning for the recognition that what is delivered by donor agencies and other multilateral development banks' assistance programs could affect the realization of human rights in developing countries. It also challenged the widely accepted belief that human rights and economic development were two separate or distinct spheres, and that the scope of development should be restricted only to economic growth (Oatley, 2004: 313~322). On the contrary, development now had to be recast in order to accommodate the prevailing notions of development which gave priority to potentially contradictory objectives such as increased productivity, growth and profits.

In short, international human rights advocates may be said to have adopted the position that human rights must be an integral part of the development process. Furthermore, the development strategy pursued by the Bank, as it existed at the time, which failed to incorporate human rights, was woefully inadequate. In support of their arguments, these activists argued that the incorporation of social and economic rights into the international bill of human rights supported their case for the recognition of social and economic needs as rights.[2] The efforts to link human rights discourse to international financial institutions was indeed popularized by activist's advocacy efforts, while the possible divergence toward the nexus of human rights ideas and development policy are gradually radical. The activist's approach which

2. This recognition is embodied in the International Covenant on Economic, Social and Cultural Rights. For further discussion, see Alston (1988); Baldwin (1965: 68~81); Pereira (1995: 211~247).

sought to integrate basic needs with rights in financial institution projects differed markedly from the good governance strategy adopted by the Bank in the 1990s. The Bank's approach holds that human rights are only 'relevant' to the extent that they enhance economic growth. In fact, the good governance strategy's focus more on nominally civil and political rights rather than economic and social rights, stemmed from the basic needs approach. This new strategy has been praised for abandoning a hostile or uncompromising position towards international economic policy; unfortunately, it abandons human rights concerns which permit citizens and groups to demand welfare concerns be defined in terms of basic needs and rights from the state and institutions of development. In short, the requirement that the human rights agenda within the Bank must be consistent with the financial and economic mandate severely constrains the Bank's initiatives in the arena of human rights. It has also resulted in limiting the efficacy of opposition to the Bank's financial and economic mandate in so far as the execution of this mandate is inconsistent with guarantees of human rights.

This reflects the conservative nature of the good governance strategy. It is conservative to the extent that it is based on establishing links between human rights and development policies of the Bank that may themselves be inimical to the protection of social and economic rights in particular. By emphasizing the mutually reinforcing character of human rights and economic policy and by assuming the two are always supportive of each other, human rights activists have found a foothold to negotiate with the Bank. However, this has only served to legitimize the economically disastrous programs of neo-liberal economic reform embraced by the Bank.

Furthermore, the idea of good governance adopted by the Bank attempts to recast the neo-liberal economic policies of the Bank in a new guise compatible with, rather than opposed to, human rights (Ruggie, 1982: 379~412). This conception gives preference to economic policy over human rights; unless these rights can be conceptualized within existing economic logic, such as openness in international trade, finance, commerce, and reduced social spending in education and health (Spero and Hart, 2003: 192~200). The Bank has therefore tended to support only those rights that fit within its ascendant laissez-faire commitments. Ultimately then, it is civil and political rights - those most compatible with neo-liberal economic reform, such as those related to private property and freedom of contract - that have received the most support in the good governance agenda. The next section traces the manner in which the good governance strategy has emerged as a counter-insurgency discourse to the human rights advocates' attempts at linking development policy with a social character.

IV. GOOD GOVERNANCE STRATEGY AND HUMAN RIGHTS

In the late 1980s, the Bank began to condition its assistance on the observance of civil and political rights, such as those relating to freedom of expression, assembly and association.[3] Previously, the Bank had conditioned its assistance in developing countries on changes that were consistent with or necessary to the implementation of market reforms. The good governance strategy was its first step towards incorporating human rights within its

3. Its first report was published in 1993 and revised and updated in August 1995. The Lawyers Committee organized a workshop in 1993 to benefit from the successful efforts of environmentalists to lobby the Bank to consider environmental considerations in its lending programs. See, Lawyers Committee for Human Rights (1993: 109~117); Spero and Hart (2003: 193; 255).

definition.[4] Since 1996, the Bank has started over 600 governance related programs and initiatives in 95 countries and is involved in supporting significant programs of governance and public sector reform in 50 countries (Development Committee, 2000).

Actually, this strategy originally surfaced in 1989 in the Bank's report on Sub-Saharan Africa, which characterized the crisis in the region as a "crisis of governance" (World Bank, 1989). It then represented an important departure from previous policy, prompted in large part by the experience in Africa. The main thrust behind its introduction in the Bank's corporate policies resides in the continuing lack of effectiveness of aid, the feeble commitment to reform recipient governments and the persistence of endemic corruption in developing countries. In addressing governance, the Bank calls into question the ability, capacity and willingness of political authorities to govern effectively in the common interest.[5] Assessing *The World Bank at the Millennium*, former Bank Chief Economist Joseph Stiglitz asserts "Views about development have changed in the Bank, as they have in the development community. Today there is concern about broader objectives, entailing more instruments, than was the case earlier" (1999: 587).

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4. Actually, the World Bank has significantly stretched its policy frontiers by endorsing "good governance" as a core element of its development strategy, in order to fulfill the concern over the effectiveness of aid. The significance of "good governance" captures the manner in which power is exercised in the management of a country's economic and social resources for development, is a multifaceted concept. While democracy tends to refer to the legitimacy of government, good governance refers to the effectiveness of government. So, it becomes an essential consideration for aid conditionality to the recipient countries. See, Santiso (2001: 1~5).
5. Researchers at the World Bank Institute have distinguished six main dimensions of good governance: 1) voice and accountability; 2) government effectiveness; 3) the lack of regulatory burden; 4) the rule of law; and 5) independence of the judiciary; 6) control of corruption (Kaufmann, Kraay and Zoido-Lobaton, 1999).

Although the Bank is prohibited by its Articles of Agreement from interfering in the internal affairs of its member countries or from engaging in political activities (or non-economic issues) such as human rights advocacy; several complementary connections have been demonstrated between the Bank's economic and financial mandate, on the one hand, human rights and democratization with political institutions within developing countries, on the other (Cohn, 2003: 4~5). These connections justified bringing human rights issues within the scope of the Bank's mandate. One World Bank publication on governance therefore states:

> Although human rights are in a larger sense indivisible, the World Bank, as an international financial institution, deals with those aspects of human rights relevant to its mandate. Except in situations where the violation of human rights has created conditions hostile to effective implementation of projects or has other adverse economic consequences, or where there are international obligations relevant to the Bank, such as those mandated by binding decisions of the U.N. Security Council, the World Bank does not take into account the political dimensions of human rights in its lending decisions. The World Bank's Articles of Agreement prohibit the institution from taking political considerations into account, interfering in the political affairs of any country, or being affected by the political form or orientation of a country (World Bank, 1994: 53).

Ibrahim Shihata, the Bank's General Counsel, elaborates this position further when he observes that the Bank's decisions on lending may be influenced by a country's political situation only where such a situation has a direct effect not only on its economy, but also on the feasibility of the implementation and monitoring of the Bank's economic reform programs. In these circumstances, human rights may become relevant, but "the degree of respect paid by a government to human rights cannot by itself be considered an appropriate basis for the Bank's decision to make loans to that government or for the voting of its Executive Directors" (Shihata, 1988: 17).

In the period prior to the good governance era, the Bank restricted itself to conditioning its loan and assistance programs only to those economic and financial conditions that fell within its mandate to ensure loan repayment. These conditions could relate to changes in tax or commercial laws, but not to explicitly political criteria such as respect for human rights, democratization, or the nature of political institutions. It is argued that the good governance strategy has changed the view of the linkage between political and economic performance within the Bank's lending programs by explicitly acknowledging that a country's performance on issues such as the nature of its political institutions, elections and democratization constitute an important framework for successful economic adjustment. In this way, the good governance agenda sought to modify the view of economics as a form of mechanics divorced from social structures adopted by economists within the Bank and conservative commentators of the Bank's work (Toyo, 1997). The importance of this linkage was only secondarily important for human rights or democratization because, in general, good governance rests on concepts of political economy, which link governmental behavior or interference in the market place with dismal economic performance and the infringement of rights related thereto. In other words, improved economic growth, not democratization or respect for social and economic rights, is the central commitment of the good governance agenda.

Hence, good governance discussions rest on the central premise that governmental intervention can inhibit economic growth through its pervasive powers of sanctions, approvals, licensing, quotas, taxes and subsidies, as well as the public provision of infra-structural facilities (Gupta, 1992: 286~287; Oatley, 2004: 322~325). These debates on good governance argue that economic policy is the outcome of “interactions among politicians, bureaucrats and interest groups operating within a set of an institutions constraints,” rather than “merely a response to economic parameters and concerns with efficiency” (Haggard and Webb, 1994: 3). Good governance is seen, therefore as an antidote to these interventions (in borrower countries), as a result of its commitment to economic liberalization through reform of laws, the public sector, and the judiciary.

The good governance agenda has therefore provided the World Bank a window through which to undertake reforms in area that would otherwise be considered political interventions and therefore off-limits. The good governance agenda popularizes these reforms as important preconditions for successful neo-liberal reform, rather than impermissible political interventions in sovereign countries (McKinnon, 1993: 427). At the heart of the good governance agenda is to promote an enabling environment as a prerequisite for successful implementation of the neo-liberal agenda (Orford and Beard, 1998: 22).

Therefore, the explicit reference to human rights and democratization in the good governance agenda should be understood in the context of this larger debate centered on demonstrating the adverse effects of governmental intervention in the economy. This explicit reference to human rights in the good governance agenda lends credence to this anti-statist agenda in view of the history of human rights abuses committed by developing countries. It also gives moral credibility to the Bank in general. While the good governance agenda does not itself constitute a legally binding commitment that the Bank would independently use to promote human rights, it could use its economic leverage on developing countries to withhold the extension of credit to governments that default on internationally recognized human rights principles. As already seen, violations of human rights do not automatically trigger use of this leverage; instead, there has to be a connection to the Bank's economic and financial mandate.[6]

The Bank boasts that its efforts in alleviating poverty constitute an important human rights role, since 'no other human right could be fully enjoyed' if freedom from poverty was not first addressed (Shihada, 1998: 53). However, there is a simple response to this very opportunistic claim. Poverty alleviation not only features tangentially in the Bank's lending programs, but it is also based on a weak approach to basic needs, insofar as it takes for granted and fails to challenge the existing disparities of wealth and power within borrowing countries as well as within the international order.

Furthermore, because human rights groups have lobbied the Bank to incorporate 'the human rights component' (civil and political as well as social and economic rights), into its pre-defined programs, the Bank has seized onto this to claim that it has the backing of these groups without making any serious commitment to them or their cause. Consequently, it is not surprising that the exercise of the Bank's so-called commitments under the good

6. The tendency of the World Bank to use its leverage only in cases it considers directly related to its mandate has been confined to very few cases. Kenya and Malawi are good examples. However, the Bank has continued its lending programs in the vast majority of cases where systematic human rights abuses have occurred. These countries include Indonesia, China, Morocco and Zaire. See Cassen (2002: 14~15); World Bank (2001b); Lawyers Committee for Human Rights (1993: 37~42); Shaw and Inegbedion (1994: 390~401).

governance agenda to withhold extension of credit to governments failing to meet certain human rights standards cannot be said to have occurred with any regularity or consistency, as the prevalence of human rights abuses in some developing countries that continue receiving Bank loans show. After all, these commitments under the good governance agenda are, in the Bank's legal department's interpretation, non-binding.

V. SHIFTING OF THE WORLD BANK'S MANDATE AND GOOD GOVERNANCE

The foregoing arguments illustrate the decreasing emphasis of the Bank on the notion that its mandate is non-political as a justification for involvement in human rights issues at all costs. Instead, the Bank invokes this non-political argument more subtly by arguing that its work in the area of human rights has to be consistent with its overall economic and financial mission. Indeed, there are more severe problems with maintaining a strict separation of politics and economics. Actually, the Bank struggles to separate the economic and political aspects of good governance. According to its report, this tension surfaced as early as 1991 when the Bank recognized that the reasons for underdevelopment and misgovernment are "sometimes attributable to weak institutions, lack of an adequate legal framework, damaging discretionary interventions, uncertain and variable policy frameworks and a closed decision-making process which increases risks of corruption and waste" (World Bank, 1991: i). These concerns do not refer only to the soundness of economic management, but also to the overall quality of the political system and ultimately to the nature of the political regime. A similar tension between the economic and political dimensions of good governance can be found in the International Monetary Fund (IMF, 1997; James, 1998).

As Moises (1994: 4) asserts, the international financial institutions "have to reconcile their political character with their technical vocation". The inherent tension between the economic and political dimensions of good governance appears the most contentious conceptual issue. Human rights advocates criticized openly, its main stakeholder the United States and its most respected economists (Easterly, 2001), the Bank is at a critical juncture in its history. It plays a central role in global governance and its leverage in the aid regime remains important. The Bank has significantly shaped development thinking and "has acquired a quasi-monopoly on institutional knowledge in the field of economic development" (Hibou, 2000: 3). "The Bank does not just lend money and produce ideas: it packages the ideas and the money together", combining lending with conditionality (Gilbert, Powell and Vines, 1999: 610). These considerations command a critical look at the Banks' intellectual ethos and modes of operation. For example, both the Bank and the IMF are political institutions, despite the fact that both purport to produce objective economic analysis. As Amsden (1994: 22) notes, the Bank's "middle management is comprised of many highly respected economists while its top management is comprised of political appointees who serve at the discretion of the industrialized countries, especially the United States." The same can be said of the IMF. This implies that the operations of these international financial institutions are affected by the needs of their contributors, especially the United States and Japan.

It would, therefore, be paradoxical for both the Bank and the IMF to insist on a strict interpretation of their roles as being essentially non-political as required under their respective Articles of Agreement. Article IV (10) of the Bank's Articles of Agreement provides that the "bank and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decision by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations are weighted impartially." [7] The IMF's Articles of Agreement have been interpreted as having a similar prohibition of engagement in the political affairs of its members (Gold, 1983: 146~148).

By the end of the 1980s, the two arguments, which the international financial institutions are autonomous from the 'political conflicts' of the United Nations and the prohibition against involvement in the political affairs of member states, has been the foundation for the Bank's and the IMF's explanation for the marginal influence of international human rights principles in the international financial institutions' decision-making (Bradley, 1998: 265~276). In view of the Bank's restrictive mandate, the Bank's good governance agenda has been praised for incorporating human rights, albeit in a marginal way, into the Bank's decision-making process on loans through the concept of political conditionality (Cohn, 2003: 215; Spero and Hart, 2003: 225). However, human rights concerns only seem to affect lending practices in the project cycle after they have already been conceptualized. Therefore, political conditionality or good governance primarily leaves the economic programs promoted by these institutions intact. The project cycle is simply the process of giving practical effect to these pre-conceptualized programs of the international financial institutions. It consists mostly of the process of disbursement of loan funds from "project identification to preparation,

7. Articles of Agreement of the World Bank, Article IV (10). Article III (5) (b) provides that the "bank shall make arrangements to ensure that the proceeds of any loan are used only for the purpose for which the loan was granted, with due attention to considerations of economy and efficiency and without regard to political or other non economic influences or considerations" (World Bank, 2001a). For relevant discussions, see Cohn (2003: 376~382).

appraisal, negotiation, implementation and supervision and finally evaluation" (Cahn, 1993: 170~171).

In addition, the Articles of Agreement of the Bank and the IMF limit the scope of political conditionality to only those considerations that affect the economic factors which justify loan disbursement (Strange, 1995: 206). Political conditionality, therefore, focuses on the behavior of the borrowing state and primarily leaves the economic programs promoted by these institutions intact. Hence, while claims have been made about the erosion of the traditional legal norms of sovereignty and non-intervention, these classical positions in international law are still defended by international financial institutions. The Bank cites its constituent instrument, the IBRD Articles of Agreement, to support the view that human rights are a political issue which fall outside the Bank's mandate unless defined in a technical or functional mode so as to fit within the Bank's economic and financial goals. In addition, the Bank continues to argue that the political sovereignty of its member countries must be respected.

The good governance agenda confers upon the Bank the flexibility to define those issues which fit within this techno-economic logic and those that do not; and thus to characterize ostensibly political issues as neutral.[8] Here,

8. Neo-liberal economic restructuring analytically distinguishes or creates boundaries between a political arena that is formally based on ideals of equality and participation on the one hand, and an economic arena based on the institution of private property and the integration of national economies into an ostensibly neutral international market on the other hand. The falsity of this distinction is less important than the fact that in the context of deep social and economic inequalities of developing countries, the distinction serves to perpetuate very minimal political enfranchisement on a few, with simultaneous economic disenfranchisement of a whole lot of others. According to Karl Klare (1994: 314), "economists and social theorists have tended to treat the question of precisely how the ground rules [for a market economy] are defined as a technical matter for the attention of lawyers." For further discussion, see also Ruggie (1982: 379~415).

the agenda proceeds from two basic and questionable assumptions: 1) economic reform based on a free-market model is governed by apolitical, techno-economic logic; and 2) important market reform concepts, such as private property rights and freedom of contract "connote a fixed set of institutional and legal arrangements, and relatively sharp and precise criteria for distinguishing 'market' from 'non-market' institutions" (Klare, 1994: 313).

The good governance agenda passes itself off as apolitical since its promoters presume that the promotion of sound development management constitutes technical, administrative, and economic tasks that do not involve political choices. As mentioned above, good governance reform became popular in the 1990s with the rise of neo-liberalism. To implement this type of neo-liberal reform, the Bank exercises:

> Power through its financial leverage to legislate entire legal regimens and even to alter the constitutional structure of borrowing nations. Bank-approved consultants often rewrite a country's trade policy, fiscal policies, civil service requirements, labor laws, health care arrangements, environmental regulations, energy policy, resettlement requirements, procurement rules, and budgetary policy (Cahn, 1993: 6).

These reforms have also been perceived as containing a specific built-in logic, as if the market manifests itself in only one definite identifiable form. This is illustrated by the absolutist idea of private property promoted by the neo-liberal agenda. However, private property connotes at least two simultaneous contradictory meanings: 1) the freedom of a property owner to use their property as they wish, notwithstanding potential harm to others (more often than not, the idea of property embedded in the neo-liberal agenda); and 2) that such use is subject to the peaceful and unrestricted use of the adjoining property owner. In addition, contract law embodies a "permanent tension between the goal of promoting freedom of action and the goal of protecting interests in security" (Klare, 1994: 315). Klare concludes that "the project of giving legal definition to market structures involves making an endless series of socially significant choices" (ibid.). Since markets do not possess such a built-in legal structure "the process of specifying the law that constructs markets is eminently and inescapably a political project."[9] However, the good governance agenda defines as apolitical the controversial, political character of the reforms initiated through neo-liberal economic restructuring, so that they can be directly related to the Bank's economic (financial and banking) mandate. Human rights must also be defined in this same apolitical way, in order to fit squarely within the Bank's constitutional mandate.

It is for this reason that human rights advocates have found it difficult to position themselves as independent critics to the Bank's policies. This outcome arises in a major way from the Bank's readiness to have dialogue on human rights issues; unlike in the pre-governance era when human rights issues were considered to be beyond the Bank's mandate. The good governance agenda has therefore provided human rights advocates an avenue through which to talk about human rights issues with the Bank; albeit in a very limited framework. That is, human rights have to be defined in a manner that is consistent with the Bank's financial and economic mandate.

9. See Klare (1994: 313~314). He also notes that "legal discourse contains no neutral logic capable of resolving contested questions of determining choices about market structure" (Ibid.: 315).

Consequently, most human rights activists have adopted a strategy based on finding common ground between human rights advocacy and international financial institutions' techno-economic policies rather than offering serious criticism of the Bank's policies.

This new strategy of finding complements between human rights and the Bank's financial and economic mandate is acceptable to the Bank for several reasons. First, it eliminates the hostile and uncompromising opposition to international economic policy that characterized previous initiatives to open up the Bank to human rights issues in the pre-governance era. Second, it is acceptable to the Bank since it has led to the abandonment of the strong version of basic needs or even the demands embodied in the New International Economic Order (NIEO) itself; which were based in part on welfare demands from the state and development institutions.[10]

Therefore, it is fair to argue that the good governance proposals are part of a conservative agenda for human rights in that it is based on establishing a connection between human rights and the Bank's development policies, which may themselves be harmful to the protection of human, social and economic rights. By emphasizing the supposedly reinforcing character of human rights and economic policy, as if they were always mutually supportive, human rights activists have established a foothold to negotiate with the Bank. This has only served to legitimize the economically disastrous programs of neo-liberal economic reform embraced by the Bank and the IMF.

In this respect, I depart from many scholars and activists of human rights who have too quickly praised the Bank's governance agenda for incorporating ideals of democracy and-human rights; even though they are aware that the

10. For relevant discussions about the NIEO, see Spero and Hart (2003: 198~200).

Bank's central mission remains the extension of its economic programs, regardless of human rights concerns. Embracing the good governance agenda lends legitimacy to these economic programs investing them with the 'moral' credence that human rights and democracy struggles represent in countries where human rights have been abused for prolonged periods and in an international context where rights have enjoyed preeminence in the discourses of international relations, politics and law.

Obviously, the following arguments are unhelpful in analyzing the relationship between economic reform and human rights within the good governance agenda: 1)the classical conceptions of sovereignty and non-intervention are in the process of breaking down or have broken down; and 2) good governance signals a departure from a previous commitment to political authoritarianism within the economic programs of bilateral and multilateral donors. As in the past, neo-liberal economic reforms continue to be committed to authoritarian governance in ways that are not always convincing. One of the forms authoritarianism embody in the neo-liberal economic agenda is its commitment to a strong state, capable of resisting democratic forces and demanding increases in social spending. Human rights advocacy is therefore implicated in promoting consequences adverse to the human rights guarantees of the international bill of human rights. This outcome arises notwithstanding the occasional criticisms leveled against some aspects of neo-liberal project of macroeconomic reform by some human rights advocates.

Stemming from the above analysis, it is fair to argue that the good governance policies are based on at least three contestable assumptions: 1) that reducing governmental interventions in the economy automatically leads to increases in economic growth and personal freedom; 2) that governmental interventions in the economy, including those intended to readdress social division, hierarchy and inequality in society, are inefficient or profit-constraining; and 3) that a redistribution of income in favor of profit or capital by the removal of profit-constraining regulations, including those that support welfare needs or rights, is a necessary cost that a society must bear in order to produce a higher rate of investment, productivity, growth and profit. From the functionalist approach, they give the illusion that technical solutions can solve political problems, thus "politics is treated as a negative input into policy decision-making" (Grindle, 2001: 370), as the politics of self-interest and rent-seeking negatively distort policy choice. This approach echoes the consensus of rational choice theory, according to which policy is created in a fairly orderly sequence of stages. However, this model fails to capture "the essence of policy making in political communities: the struggle over ideas" (Stone, 1989: 7) and the process framing public policy-making. It circumvents politics by negating it. For economists who dominate the Bank's ethos, policy is essentially a sphere of rational analysis, whereas politics is the sphere of irrationality. Their approach to governance is thus aimed at extricating policy from politics, assuming that analysis and politics can be separated in the process of public policy-making. This continues to guide the Bank's approach to the good governance strategy.

VI. CONCLUDING REMARKS

This paper has focused on the manner in which the good governance strategy has emerged as a means of putting limits on human rights advocacy. The good governance agenda is a careful integration of human rights and growth-driven economic policy; not as incompatible projects, but as a necessary alliance for democratic and economic reform. This approach involves justifying rights within a laissez-faire economic and political framework. I have stressed that by emphasizing the compatibility between human rights and laissez-faire economic policy, the good governance agenda underplays the constraints neo-liberal economic policy imposes on the realization of social and economic rights (or welfare entitlements/basic needs) in particular, and third generation rights associated with the NIEO, such as the right to development.

In other words, the good governance agenda serves as the Bank's shorthand for measuring which parts of the human rights agenda are compatible or consistent with its financial and economic mandate. This requirement severely constrains the possibility that within the good governance agenda that alternative development policies promoted by human rights advocates and activists may come to be implemented. Such development policies offer grounds for those who support a human rights agenda in development to demand that welfare concerns be defined in terms of basic needs from the state and institutions of development. The good governance agenda, however, has changed the post-Second World War growth/distribution welfare state compromise by stigmatizing protective governmental interventions in the economy as necessarily inimical to economic growth and freedom.

As such, the explicit reference to human rights and demoralization in the good governance agenda needs to be understood in the context of good governance or neo-liberal economic restructuring, particularly its concern with demonstrating the adverse effects of governmental interventions in the economy. In this sense, the explicit reference to human rights in the good governance strategy invariably lends credence to the anti-statist neo-liberal agenda. Granted the history of abuses committed by developing states, the Bank's instrumental cooperation of rights within the good governance agenda lends moral credibility to the Bank in general. While the good governance strategy does not itself constitute a legally binding commitment that would compel the Bank to independently promote human rights, it does indirectly empower the Bank to use its economic leverage on developing countries by withholding the extension of credits to governments that default on internationally recognized human rights principles. However, historically the violations of human rights have not automatically triggered the exercise of this leverage. Instead, there has had to be a connection to the Bank's economic and financial mandate before this leverage was exercised.

Moreover, the Bank neglects to redesign the priority of economic development projects with the shift in focus from growth to equity. The key is that the effectiveness of aid on governance reform and on economic growth and human rights protection are two distinct elements. While aid might be ineffective in inducing and sustaining governance reform, it is effective in stimulating growth. Research discussed at a OECD seminar in January 2001 shows that there may be a positive relationship between aid and growth even in countries hampered by an unfavorable governing and human rights environment (Hansen and Tarp, 2000). For example, aid can affect poverty through channels other than economic growth by increasing aggregate savings and investment as "growth is not the only route to poverty reduction, nor is growth the only benefit of aid" (Beynon, 2001: 2).

Actually, the good governance strategy challenges the conceptual foundations of the Washington consensus. Its emergence has given rise to what some analysts describe as a "post-Washington consensus" (Burki and Perry, 1998). One of its important dimensions is the recognition that politics matter for development. It suggests that sustaining development requires reforming not only the policies, but also the institutional framework in which policies are formulated. It has become apparent that effective democratic institutions are urgently needed to complement macroeconomic policy changes, provide safety nets and assuage the adverse social consequences of structural adjustment programs. As Marco Feroni (2000) underlines, reforming foreign aid requires crafting genuine partnerships and processes for reaching agreement on priorities, procedures and reciprocal obligations toward specified objectives. In particular, the governance agenda compels development institutions and aid agencies to link economic assistance and political aid.

Nevertheless, the good governance strategy may also be regarded as a political compromise or avenue through which those who continue to lose out under the stringent neo-liberal economic programs seem to give consent to their control by the owners of the means of production. Human rights and political democracy, in so far as they have become a part of the conservative economic commitments of neo-liberal economic reform, are some of its primary instruments of legitimization, permitting individuals and groups (which lost out in the economic reform process) to press their claims regarding the allocation of resources and the distribution of output; even when the economic and political system is being shutout from addressing these claims. The good governance strategy, in short, plays a major role in managing and soothing the injustices and antagonisms of daily life now exacerbated by the implementation of neo-liberal economic restructuring. However, paradoxically, the liberties protected by the commitments to human rights and political democracy in the good governance agenda also give these politically disenfranchised citizens liberties that they were often denied under the authoritarianism that accompanied the developmental theory of the 1970s and the 1980s.

Finally, if we trace back through human history, the efforts of international human rights advocacy has gained credibility based on its association with the real problems of those in poverty, of those economically dizadvantaged and of those struggling against political authoritarianism and repressive social conventions. For its part the good governance strategy places priority on developing countries and on programs of economic reconstruction, which are overtly intolerant of governmental activism in the economy and are hostile to worker and welfare rights, however at the same time committed to civil and political liberties, especially those of property and contractual freedom. This strategy became popular not just because it has proved to be an effective ally of the capitalists and the international order within which they operate, but also because it has simultaneously and perhaps paradoxically become associated with humanizing commitments. Undoubtedly, this strategy brings the capitalist international order a measure of moral credibility without posing any fundamental challenge to it. Consequently, the good governance agenda bears the imprint and support of transnational elites and interests, notwithstanding their commitment to visions of humanizing or ameliorating the problems of our present institutional contexts. As such, divesting ourselves of the notion that these institutions are indispensable is a useful place to begin. However, the local elite will, as ever, continue to police and constrain challenges to the status quo by allowing only those forms of transnational activists that do not go too far in their attempts of social change and economic reform.

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Nexus of Good Governance Strategy and Human Rights Advocacy in International Financial Institutions: A Case Study on the World Bank

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Abstract

This paper examines the compatibility and conflict between human rights advocacy and aid policy of international financial institutions by adopting the World Bank's good governance strategy. Considering third-world development, this strategy since the 1990s has aimed at incorporating human rights by adding the concept of political conditionality into its decision-making process of granting loans. However, this policy fails to build substantial linkage with human rights, owing to the assumption that the World Bank needs only to tinker with its aid implementation or procedures in order to humanize development programs, and turn them away from their sole preoccupation with materialistic values such as economic growth. Therefore, this paper begins with an analysis of the good governance agenda in terms of governmental intervention. This paper then explores how the World Bank's institutional mandate has become the template for justifying only those human rights that are consistent with development projects that still give priority to investment, growth, and productivity at the expense of social welfare entitlements. This paper concludes that this strategy neglects to redesign the priority of development projects such that they give up the primacy of growth over equity concerns. It merely rearranges the implementation of pre-designed projects by broadening the participation and consultation of local groups and citizens. The need to review the current unbalanced nexus of developmental policy and human rights promotion to build an aid pattern with social rights are essential. However, local elites will possibly constrain challenges to their own interests and attempts for social change and economic reform.

Key words: international human rights, good governance, World Bank, aid conditionality, development policy, international financial institution.