



# Doing the Rights Thing?

The World Bank and the human rights of people living in poverty

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## DOING THE RIGHTS THING? THE WORLD BANK AND THE HUMAN RIGHTS OF PEOPLE LIVING IN POVERTY

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## *Doing the rights thing?*

### **The World Bank and the human rights of people living in poverty**

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## Executive summary

This briefing argues that the World Bank can significantly improve its ability to impact issues of economic growth and poverty reduction by accepting the positive role that national human rights objectives can play in development.

The argument outlined in this briefing suggests that by working in partnership with governments on national human rights objectives, the Bank can greatly help countries to move towards the realisation of their international treaty obligations. The Bank's current reticence in this area denies to developing states the unique technical assistance and insights of an agency with proven skills in other areas of government capacity building.

At a minimum, the World Bank must take a clear position on the relationship between its work in social sector areas and the stated national human rights commitments relevant to those areas. The Bank does not work in a vacuum: if it works in the education sector of a state that has committed itself to the *Convention on the Rights of the Child* then it will inevitably have an impact (positive or negative) on progress towards those goals.

This briefing argues that it is in the Bank's own interests to accept the implications of nationally made rights policy.

This briefing is limited in its scope, however, to the question of human rights as national policy. The briefing does not review the merits of a rights-based approach per se. Instead rights are defined narrowly as the provisions of international instruments that are formally endorsed and accepted by a country.<sup>1</sup> It is the question of the Bank's

impact on the performance of countries against their existing rights objectives that therefore underpins the discussion.

This briefing does, however, also recognise that the Bank's own operations, and particularly its programme lending, would benefit from a more positive approach towards rights. Using a review of Bank literature and three country case studies, and drawing on interviews with Bank staff, this briefing suggests that there are two critical ways in which rights can positively support the mission of the World Bank:

- National policy objectives – The primary responsibility for delivering on human rights commitments rests with governments. By making these commitments, however, governments have created a useful basis of understanding for the potential future entitlements and obligations of citizens. The Bank is an important partner to many governments that have relatively weak capacity to implement social policy through rights-friendly approaches. Governments themselves are often not aware that a greater emphasis on rights can entail simple and incremental changes rather than major policy overhauls. The Bank has a unique role to play in working with governments embarking on this policy journey, and a failure to take up this role may actually hinder governments from doing so.
- Due diligence – The Bank has embraced the goal of human development, yet fails to ensure that its own programming reflects the multi-dimensional needs of people. This briefing will show that by eschewing rights, the Bank is delivering

<sup>1</sup> Elsewhere World Vision has argued that a 'right-based' approach would greatly benefit

Bank initiatives, such as PRSPs. World Vision itself has a broader organisational understanding of human rights summarised in the pamphlet: *Protecting children*, <http://www.child-rights.org>

an inferior product in its lending programmes and making alarming errors – such as investing more funding than any other donor agency in education while failing to consider issues such as child protection and abuse in its programmes.

**Section one** of this briefing argues that there are strong pragmatic reasons for the Bank to integrate a concern for rights into its work. One is that this would foster the demand side of economic reform. There are also convincing arguments that rights complement the belief that service recipients should have mechanisms for accountability and effective leverage. These arguments underline the critical role of rights in providing tools for those seeking to promote empowerment in development. Indeed, the Bank's own empowerment sourcebook implicitly points to positive roles the Bank might play in relation to rights.

**Section two** of the briefing discusses the Bank's current position on rights, reviewing its 1998 publication on the issue and the draft of the 2004 *World Development Report*. These suggest that the Bank sees its role as creating a broad environment in which rights might emerge – yet resists the idea of acting strategically to help governments bring this about.

**Section three** examines claims that the Bank's mandate prevents the institution from being more proactive in assisting governments to achieve their rights objectives. It shows such arguments to be groundless, in that the *Articles of Agreement* were not meant to proscribe assistance to governments on rights issues. Indeed, this section points to other, considerably more political, activities already undertaken by the Bank.

**Section four** uses three country case studies to illustrate the current failure of

the Bank to proactively use its programming to help governments in achieving their national commitments on human rights. The case studies also underline the failures in due diligence that can occur as a result of indifference to issues of rights.

**Section five** recommends that the Bank:

1. Accept that offering help to governments in achieving their national rights objectives and international obligations is no more a political activity under the terms of the *Articles of Agreement* than judicial and legislative reform and than many aspects of conditionality.
2. Operate on the assumption that governments wish to fulfil their stated national rights obligations and objectives. Existing commitment to conventions, representing both the national and international consensus on rights, should automatically be part of the programme lending dialogue.
3. Provide technical assistance and capacity building to governments to strengthen their ability to achieve rights commitments, as the Bank currently does in the field of empowerment.
4. Provide technical assistance to governments on rights reporting.
5. Undertake a rights impact analysis, as part of planning and due diligence for Bank programme lending/grants, that would identify:
  - a. how Bank-funded initiatives can maximise progress towards national rights commitments, and
  - b. what key rights issues may be absent from programme planning, with direct negative consequences for citizens.
6. Revise operational policy guidelines to

include the need to assist governments in fulfilling their rights obligations, most urgently in areas such as education.

7. Seek the endorsement of the Board of the World Bank for Bank-funded projects designed to help governments achieve their rights objectives – thus testing the willingness of the Board to accept such a role for the Bank.
8. Provide rights-based training for policy and programme staff at the Bank, particularly nationally based staff, and develop best practice on the role of lending in supporting efforts to achieve national rights obligations.
9. Ensure effective liaison with UN and other multilateral agencies with a view to creating greater consistency between all multilateral bodies on human rights issues.

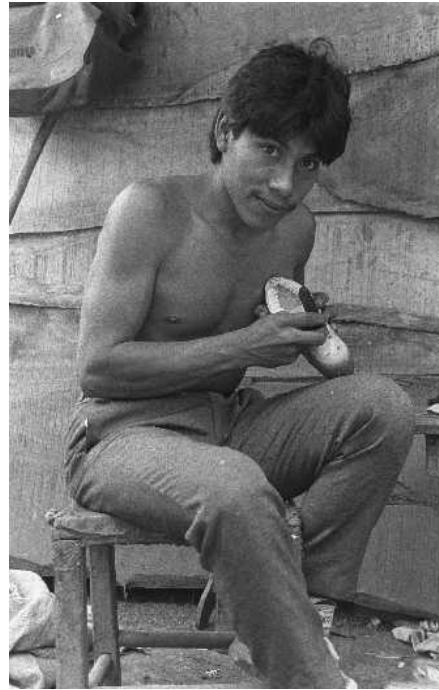


Photo: World Vision Nicaragua

## Introduction<sup>2</sup>

The World Bank is not Amnesty International nor Human Rights Watch. It has already adapted its operational modalities to respond to a wide range of external concerns. So why should the World Bank now take on yet another issue and change the way it views the role of 'rights' within its work?

This briefing does not argue that the Bank should become a 'human rights organisation' nor berate governments on their record of upholding rights. Indeed World Vision opposes the concept of human rights-related conditionality.

Instead, this briefing suggests that embracing existing national commitments on rights could greatly assist countries in achieving the realisation of their rights objectives. The Bank can do much to help countries with their rights objectives through incremental changes to its own programme partnerships with governments.

This briefing is therefore focused on the Bank's role as a partner to national governments. It centres the debate on rights within the context of these partnerships. As a result the definition of rights used in the discussion is narrowed to the legal reality of rights that have been accepted at the national level. World Vision as an organisation adopts a broader view of rights,<sup>3</sup> but accepts that for the World Bank the concept must be rooted in national and international legal frameworks.

In the process of helping countries to

realise their obligations under international human rights treaties the Bank can also benefit its own programmes. More attention to rights could help to build local constituencies for reform and enhance Bank due diligence. An unclear position on national rights objectives only weakens the Bank's mission of promoting economic growth and improving living standards.<sup>4</sup>

Why is it particularly important for the Bank to embrace such national policy commitments? Because the Bank is often at the heart of programmes to reform the capacity and infrastructure of a state. This briefing refers often to the education sector, an area in which the Bank is both a large funder and a significant source of technical expertise. The Bank is therefore intimately involved with those ministries and aspects of national policy that are vital to the realisation of national commitments to key human rights conventions. The Bank also has the very technical skills and expertise that would be essential for governments to build gradual realisation of rights objectives into their strategies.

This does not mean that the Bank is solely responsible for the success or failure of movement towards national rights objectives in key sectors such as education. The government ultimately has primary responsibility (issues such as political will are discussed below). Nevertheless, the Bank makes a choice whether to offer to help governments turn their rhetorical promises into reality.

This choice is crucial when the Bank is

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<sup>2</sup> Written by Kel Currah, Haidy Ear-Dupuy, Ruth Kahurananga, Melanie Gow and Alan Whaites

<sup>3</sup> World Vision believes that core human rights are God-given to all people and represent a minimum set of conditions necessary for human dignity and well-being. World Vision's approach to human rights is discussed in the pamphlet: *Protecting Children*, <http://www.child-rights.org>

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<sup>4</sup> The purpose statements of the International Bank for Reconstruction and Development (IBRD), the International Development Association (IDA) and the International Finance Corporation (IFC) commit the World Bank to fostering transitions to stability and growth for post-conflict societies and, more widely, the achievement of economic growth/development and improved living standards.

playing a lead role in the reform of specific sectoral policies. Yet the Bank sometimes seems to be stuck in the 'trickle down' mindset that once existed in relation to poverty reduction: that creating a conducive environment for rights is enough. In reality, just as pro-poor growth can accelerate the rate at which economic reform reduces poverty, so strategic help on rights can bring greater progress more quickly.

Offering strategic assistance to partner governments on rights is not just important because it can improve progress towards the realisation of rights. It also makes good sense for the Bank itself. Embracing national commitments on rights offers the Bank two useful tools for its programme lending: the first relates to the sustainability of reform; the second to the Bank's own impact on human development:

1. National policy objectives – The primary responsibility for delivering on human rights commitments rests with governments. By making these commitments, however, governments have created a useful basis of understanding for the potential future entitlements and obligations of citizens. The Bank is an important partner to many governments that have relatively weak capacity to implement social policy through rights-friendly approaches. Governments often themselves are not aware that a greater emphasis on rights can entail simple and incremental changes rather than major policy overhauls. The Bank has a unique role to play in working with governments embarking on this policy journey, and a failure to take up this role may actually hinder governments from doing so.

2. Due diligence – Development is often defined as the improvement of the human condition, and in recent years the Bank has embraced the concept of 'human development'. Yet

the Bank is failing to ensure that its own programming reflects the multi-dimensional needs of the people who are intended to be its beneficiaries, with some alarming results. This briefing shows that by eschewing support for the implementation of rights conventions, the Bank is making basic errors that undermine the effectiveness of its own programmes.

This scope of this briefing is therefore limited to only two aspects of the much wider rights debate: national rights commitments, and the Bank's own quality of service to its client countries. However, these two areas are the crux of why the Bank must urgently reconsider its approach to rights.

The Bank has in the past professed not only that it is concerned about rights but also that its work broadly supports a rights agenda. But without a greater commitment by the Bank, many governments will continue to struggle to achieve their rights commitments. The Bank's unique role in partnering with governments means that its non-commitment is itself a barrier. Yet offering help to national governments on their existing rights commitments would not contravene the Bank's mandate – indeed, it would be much less 'political' than some existing Bank activities.

This briefing begins by explaining why rights should matter to the Bank, but as the discussion on mandate highlights, the Bank has to ask itself what is really preventing it from offering help to governments in achieving their rights commitments.



Photo: Democratic Republic of Congo, Robert Michel

## Section one: Why should rights matter to the Bank?

There is an underlying moral rationale for why rights should matter to all people and institutions. Rights are the means through which humanity affirms the worth of the individual and the entitlements of the person in relation to their state and wider community (though with economic, social and cultural rights progressive realisation of those entitlements may be necessary).

The role of rights in affirming the worth of the person within the development process is important. As a Christian NGO World Vision believes that development is first and foremost about people and the enabling of individuals to reach their God-given potential – a process that often entails the securing of their rights.

For the World Bank this moral imperative to affirm both the worth and entitlements of people in development urgently needs to be addressed. But, for the World Bank, there is also a more pragmatic rationale to rights that greatly overlaps with the Bank's own stated priorities and areas of work.

### 1.1 National commitments

The first of these pragmatic issues is the fact that governments do find 'rights' useful as ways to express their national aspirations with regard to the treatment of citizens. As a result, they opt to sign/ratify international rights instruments that accord with the national consensus on rights objectives. There is no international consensus as to what a 'complete package' of rights might look like;<sup>5</sup> indeed, since the Second World

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<sup>5</sup> Although the *Universal Declaration of Human Rights*, the *Covenant on Economic, Social and Cultural Rights*, the *Covenant on Civil and Political Rights*, the *Declaration on the Right to Development*, the *Convention on the Rights of the Child* and the *Convention on the Elimination of all forms of Discrimination Against Women* are often

War there has been a proliferation of new rights documents. Looking at rights from the perspective of national-level objectives and commitments is therefore a useful way to make the issues concrete in terms of the parameters for action.

World Vision believes that all states should subscribe to a range of rights conventions (such as the *Universal Declaration on Human Rights*, the *Convention on the Rights of the Child* (CRC), and the *Convention on the Elimination of all forms of Discrimination Against Women* (CEDAW)), but we recognise that it is not the role of the World Bank to go beyond the rights definitions subscribed to by its individual member states.

For these reasons, this briefing refers to rights only in the context of nationally accepted international rights instruments. When answering the question 'what are rights?' this briefing offers a narrow, legalistic answer. Rights are those specific provisions of international conventions endorsed by a country through formal acceptance, provisions which in the case of economic, social and cultural (ESC) rights may be realisable over time as national capacity allows.<sup>6</sup>

The decision by states to subscribe to rights instruments is centrally important. For rights to have meaning they must both be granted by some body (the state), and be matched by a sense of obligation on that body to work towards the entitlements involved.

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referred to as the core of the international rights framework, there is also an understanding that certain human rights are now recognised as international customary law, which means that all governments are held accountable to those regardless of their stated commitment to a particular treaty.

<sup>6</sup> See 'Protecting Children,' WVI, available at <http://www.child-rights.org>

The fact that states do subscribe to rights conventions leaves a major question mark hanging over the World Bank's refusal to be more affirming of such commitments. It may be easy to cynically discount the commitment of individual states to rights – but it is not the role of the Bank to pre-judge the potential positive commitment that might exist.

The Bank, after all, is faced with the concrete issue of member governments having determined that certain 'rights' instruments do express their own national objectives on the fulfilment of their civilians' rights. These governments have affirmed a desire that the processes of development, economic growth and social change should deliver the entitlements found in those instruments to their citizens.

In some cases, governments have displayed remarkable levels of unanimity in agreeing on instruments that match their commitments. For example, the CRC has near-universal acceptance, while CEDAW is not far behind. Thus, this briefing focuses particularly on these two conventions as examples of national commitments on rights.

The widespread acceptance of such conventions does not, of course, equate automatically to their implementation, Bosnia for example (section 4.1 below) has an impressive array of human rights laws but an uneven track record in implementation. Rights do represent entitlements, but in most developing countries ESC rights are not deliverable immediately. Where practical constraints prevent the immediate fulfilment of ESC rights, the embracing of rights instruments must be seen as a statement of intent – a recognition of potential entitlements that nations wish to make deliverable with time.<sup>7</sup>

<sup>7</sup> Indeed the CRC explicitly recognises the concept of 'progressive realisation of rights' in Article 4, Article 24.4 and Article 28.1

In some states, governments have intentionally decided to suppress human rights, even those enshrined in less overtly 'political' conventions such as the CRC and CEDAW. Often, however, it is not repression or lack of political will that creates a problem of observance so much as lack of awareness, training and capacity. For many states, particularly those emerging from conflict, lack of resources and weak government capacity severely hamper efforts to fulfil human rights commitments. Even in the most repressive states, World Vision has found that governmental affirmation of the CRC has allowed dialogue to take place with local officials resulting in substantial improvements in services for children.



Photo: Honduras, Jon Warren

It is arguable, therefore, that these nationally owned objectives for development should be at the centre of the Bank's work as it assists borrowing states. The Bank does provide much technical assistance in other areas, but does not go so far as to offer technical help to those states that struggle to complete the reporting on their rights commitments, let alone the fulfilment of these (see the Bosnia case study in section four).

The Bank's existing programming and technical expertise, however, make it uniquely and ideally placed to assist states in the task of realising rights commitments. The Bank is also ideally placed to advise governments on the introduction of

international commitments into national legislation. Legislating on rights commitments can be an important initial step in the realisation of those rights.

## **1.2 Due diligence and quality of programme lending**

A second reason why rights should matter to the World Bank is the need for due diligence with regard to its work. Even if the Bank is unwilling to proactively help states to achieve their aspirations with regard to rights, it would be hoped that the Bank's own programming does not hinder the processes of meeting those national objectives.

Instead (as the case studies in section four show), it is too often the reality that the Bank simply fails to consider rights as it plans and implements its programme lending. As section 4.2, a case study of Nicaragua, highlights, the story of the Bank and national aspirations on rights is often one of a failure to leverage the Bank's own good work. The Bank working in partnership with governments on rights could do much to increase the impact project, particularly in social sectors. Failure to do so is disappointing given the fact that including a rights dimension would be relatively straightforward, in most Bank programmes requiring incremental rather than structural change.

At present not only does the Bank miss opportunities to build fairly simple activities into its lending which would help governments achieve their commitments; the Bank also loses the 'human'-centred dimension to development that is at the heart of the concept of rights. A good example of how a greater consciousness of rights can impact programme lending is education.

A government's endorsement of the CRC is intended to ensure that 'the best interests of the child' are pursued at all times. The

government may or may not have a clear plan for realising the aims articulated in the CRC, including within its own child-focused services, such as education. The Bank, however, as the major investor in the education sector, is often centrally involved in the processes of planning and implementing reform of educational provision. Thus, the Bank has a unique opportunity to dialogue with the government on the potential role that education reform can play in progressing towards national goals expressed through the CRC.

How could this affect children? When the Bank ignores national commitments to the CRC it risks key principles, such as the best interests of the child, being left behind. In their absence, the educative process could potentially become a mechanistic attempt to create a production line of future workers that neglects the social and physical development of the child. The Bank needs to demonstrate that this is not its intention, by balancing its focus on content of teaching with greater attention to cross-cutting themes such as protection, play and participation.

The Bank, therefore, as the world's largest external investor in education, is unavoidably in a unique position to either help or hinder countries as they seek to fulfil the CRC. When assisting governments to reform their education systems, the Bank is changing one of the essential vehicles through which those governments will either succeed or fail in achieving their rights commitments.

World Vision is conscious of the challenges faced by those governments. Pursuing development while promoting rights can be difficult enough for an NGO given individual contextual complexities. But it becomes almost impossible for governments to achieve key areas of rights fulfilment if their providers of technical assistance and financing are not willing to prioritise rights

issues. The Bank must accept that it does not act in a vacuum: its actions will inevitably have a negative or positive impact on attempts to fulfil rights commitments.



Photo: BiH, Sanela Sipragic, World Vision returnee programme in Banja Luka

Another example of the consequences of ignoring national rights objectives came during the interviews conducted for this briefing. A Bank staffer referred to a recent NGO report on the country in question, which had analysed Bank economic reform programmes with reference to children's rights. The report pointed to the access problems created for children by the process of privatisation. The Bank staffer commented on how useful the report was in highlighting an issue that might otherwise have been missed. When World Vision asked whether use of the CRC while developing the privatisation plans might have signalled those potential problems in advance, leading to possible ameliorating action, the Bank staffer agreed.

Operational NGOs are well aware that development is a difficult area of work at the best of times. For this reason, in recent years NGOs have recognised that opening up programme activities to the concept of the rights of beneficiaries can only increase accountability and help to improve performance. Ultimately the issue is not about restraining Bank lending nor adding extra complexity to the work of Bank staff. Rather, the rights issue is about improving Bank programme lending and maximising its beneficial impact for the poor through incremental, not structural, change in

practices. A concern for national rights objectives could be integrated into Bank programme lending more easily than many issues that have been absorbed in the past.

### **1.3 Rights and support for the 'demand' side of reform**

There is currently a major inconsistency in the World Bank's approach to economic reform. The Bank has recognised that the sustainability of reform requires much closer attention to political economy issues and to a sense of national ownership – a recognition that has influenced new initiatives such as Poverty Reduction Strategy Papers (PRSPs). The Bank has also recognised that creating a good climate for investment entails tackling institutional issues such as rule of law and judicial reform.

Despite this understanding on the part of the Bank, its approach to both sets of issues still refuses to recognise their interconnectedness with the question of rights.

This can be seen with rule of law, which represents something of a chicken and egg situation in relation to human rights. Rights are rarely fully respected where rule of law is not strong, and yet it is difficult for rule of law to be strong where expectations are lowered by lack of awareness of rights.

If the Bank is serious about promoting accountability and the rule of law, then it must also take more seriously the issue of raising citizens' awareness of nationally owned commitments to rights expressed within the CRC, CEDAW and other conventions. Indeed the Bank should be proactively encouraging governments to introduce their international human rights commitments into domestic legislation.

Rights are inextricably linked to the process of human empowerment. For example, as women become aware of their rights under

CEDAW to refuse to undergo genital mutilation, or to seek equality of opportunity with men, it becomes more likely that they are able to press for an environment that respects these rights. The Bank cannot expect citizens to hold anybody to account if they are asking: accountable for what?

The Bank would do well to consider the work of Varun Gauri from its own Development Research Group. In a paper in March 2003, Gauri compared a rights-based with a purely economic approach to health care and education in developing countries. Gauri's conclusion was that:

A rights orientation strengthens the position of individuals to obtain information, avail themselves of service delivery options, organise local institutions and civil organisations, and pursue judicial redress in domestic courts where necessary. Interestingly, the policy consequences of rights overlap considerably with a modern economic approach to the provision of health care and education, which emphasises the importance of mechanisms of accountability and empowerment, such as participation in decision making and access to information, for the achievement of welfare outcomes.<sup>8</sup>

These conclusions echo those of an interesting study undertaken for the Bank by Caroline Moser and Andy Norton on livelihood security, human rights and sustainable development. Through case studies and the analysis of qualitative research, Norton and Moser concluded that using rights as a framework could make a positive difference to Bank programming. Their view was that 'rights matter – and a framework that focuses on rights helps to understand the power dimensions of

development processes'. Importantly, Moser and Norton heavily link the use of rights to the concept of empowerment, stating that they 'provide a set of appropriate tools, or instruments, for those seeking to operationally integrate empowerment into initiatives designed to promote poor people's sustainable livelihoods.'<sup>9</sup>

As the next section shows, however, the Bank's own position on rights is rather confusing. The Bank seems in some ways to know that proactive work on rights could substantially benefit its objectives, but still resists more systematic assistance to governments in these areas. In relation to empowerment, for example, the Bank's own sourcebook goes a long way towards accepting the points that Moser and Norton make.

The sourcebook not only recognises the role of rights within many definitions of the concept, but also point to their roles in many of the supporting case studies and examples. In view of this recognition of the role of rights, surely the Bank would seek to work alongside governments trying to fulfil their international commitments on rights? After all, when it comes to the Bank's own role in relation to empowerment, it states:

The World Bank's comparative advantage in pursuing an empowerment agenda as an integral aspect of poverty reduction lies in its relationship with more than 100 governments around the world. The Bank's comparative advantage is, obviously, not to work at the community level but to advise governments based on analytical and evaluative work, to facilitate links to financial investment, and to enable others directly or indirectly to work on the empowerment agenda. The

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<sup>8</sup> Varun Gauri, 'Social Rights and Economics: claims to health care and education in developing countries', *World Bank Policy Research Working Paper 3006*, March 2003, p 16

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<sup>9</sup> Caroline Moser and Andy Norton, *To Claim our Rights: livelihood security, human rights and sustainable development*, Overseas Development Institute, London, 2001, p 40

Bank is uniquely placed to provide support in four areas: (a) analysis, evaluation, and advice; (b) convening; (c) enabling; and (d) capacity building.<sup>10</sup>

These four areas would be invaluable avenues of support for governments in the fulfilment of their national commitments on rights. Offers of advice, capacity building and promoting an enabling environment through Bank projects would be significant sources of help. Yet, as the next section highlights, the Bank's potential to work alongside governments on the issue of rights is thwarted by its lack of willingness to adopt a clear strategy for systematically offering such help during the development of related projects. The Bank excuses this lack of willingness through reference to its mandate; the veracity of this is discussed below.



Photo: Nicaragua, Sergio Cruz, Many rural areas of Nicaragua are still without safe water.

<sup>10</sup> PREM, *Empowerment and Poverty Reduction: a sourcebook*, World Bank, May 2002 (Draft), p 16

## Section two: The Bank's position on rights

The World Bank has always readily expressed broad support for the concept of Economic, Social and Cultural (ESC) rights, but has shown less concern for the counterpart Civil and Political (CP) rights.

### 2.1 The 1998 report

The Bank has enthusiastically pointed to its financial support for the delivery of clean water, education and health as inevitably advancing the cause of ESC rights. In its 1998 report *Development and Human Rights*, the Bank states that:

The Bank contributes directly to the fulfilment of many rights articulated in the Universal Declaration. Through its support of primary education, health care and nutrition, sanitation, housing, and the environment, the Bank has helped hundreds of millions of people attain crucial economic and social rights.<sup>11</sup>

That report, however, fails to acknowledge that in order for such provision to help create the environment for attainment of rights (something it describes as a 'central and irreducible goal of development'<sup>12</sup>), some degree of deliberate strategy is needed. The case studies in this briefing (Section four) show that the Bank's expenditure of US\$31 billion on education over 35 years does not necessarily mean that the Bank has helped education systems become better vehicles through which governments can deliver on rights.

The Bank's failure in 1998 to bring the concept of rights down from the broad and vague to the practical and specific is partly explained by an underlying belief that

'development' itself will ultimately, somehow, deliver the rights involved. Using logic eerily reminiscent of the view that economic growth on its own is sufficient for poverty reduction, the Bank suggests that its greatest role may be to facilitate the process of development, rather than to help governments with solid plans.

The 1998 report also struggles to embrace a critical link that exists between ESC and CP rights: the fact that governments have less incentive to fulfil their commitments on the former where the latter are weak. This is evident when the report points to the Bank's mandate as the key impediment to it doing any more than working obliquely around the edges of CP rights (such as its efforts to combat corruption).

This reticence to get involved with CP rights seems to extend even to those cases where governments have an expressed national policy commitment to improve their record in these areas. Indeed, some states have included their desire to improve performance and internalise their international commitments within their Poverty Reduction Strategy Papers, written as part of a Bank/Fund debt relief process.<sup>13</sup> Thus, the Bank's approach has been to view rights only in the broadest of lights, and its own role as limited to supporting a development process that, it assumes, will facilitate the fulfilment of rights. This approach simply will not work. It neither helps citizens wanting to be aware of their entitlements in relation to failing service providers, nor helps states that are seeking to improve service provision to better meet their international rights obligations.

### 2.2 Late signs of hope?

Belatedly, there are signs that the Bank does recognise that reality works the other way around: that development will not take

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<sup>11</sup> The World Bank, *Development and Human Rights: the role of the World Bank*, World Bank publishing, Washington, 1998, p 3

<sup>12</sup> *Development and Human Rights*, 1998, p 2

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<sup>13</sup> See, for example, the PRSPs for Mauritania and Zambia

place without the accountability provided by rights. These signs come in the draft 2004 *World Development Report* on services – a report that represents one of the best marriages of economic logic and pragmatic political economy that the Bank has so far produced.

In particular, its chapter on ‘poor citizens and politicians’ echoes the work of Gauri and represents an unusually rights-friendly analysis of how ‘virtuous cycles’ to improve service provision might be created among citizens, governments and service providers. This approach hinges on members of the public being fully aware of their entitlements – an awareness that enables them to articulate concerns and hold providers to account.<sup>14</sup>

Creating that awareness depends on a normative framework of objectives and standards for service provision deliverables, both for the individual and the state. Those standards and objectives already exist in the form of the international rights conventions adopted by most states. Indeed, for services such as education the most relevant convention – the CRC – provides a guide to how service provision might not only deliver universal coverage, but also prioritise the best interests of the child.

The question therefore remains: If the Bank understands the potential for effective accountability brought by public awareness of entitlements; if it also wishes to see the creation of a helpful environment for rights in which states can fulfil their national objectives; why has it not used its \$31 billion expenditure on education to more proactively assist governments to meet their objectives under the CRC?

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<sup>14</sup> Draft *World Development Report* 2004, chapter 5, pp 5.9–5.10

## Section three: Keeping within the mandate

The Bank has made frequent reference to its mandate, derived from its founding charters, as the reason why it cannot be more proactive in relation to rights.

World Vision appreciates the role that the Bank's mandate has played in promoting the institution's long-term commitment to poverty reduction and also the reconstruction of war-torn societies. World Vision is conscious that the IBRD *Articles of Agreement* (article 4, section 10), the *Articles of Agreement* of the IDA (article 5, section 6), the articles of the IFC (article 3, section 9), and the *Convention Establishing the Multilateral Investment Guarantee Agency* (chapter 5, article 34) all impose some form of prohibition on political activity. The first three of these are worded:

The Association 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 this Agreement.

Clearly, the wording of this prohibition poses two definitional questions that are central to the issue of the Bank's role in institution-building within the area of human rights. The first question is the precise meaning and interpretation of political interference with respect to human rights. The second is the meaning and interpretation of 'economic considerations', and how these might differ from questions of politics.

World Vision certainly supports the commitment of the World Bank to maintain the sovereignty and political integrity of the states with which it works. In particular, World Vision would oppose any extension of conditionality in these areas, including in

relation to rights. But there is a considerable difference between interfering unbidden in the internal affairs of a state and offering to help a government with a problem with which it is faced. For example, as the case studies in Section four show, a lack of resources and/or problems of conflict cause some governments to be seriously late with reporting on their rights commitments. Sadly, it seems it would be too political for the Bank to offer help.

### 3.1 Political or partisan?

Upon closer scrutiny, invoking the danger of being too political as an excuse for the Bank to avoid helping governments on rights is misleading at best. The nature of both development and conditionality are inherently political and as a result the Bank has frequently become 'political' when needed. There are simply no neat dividing lines between the economic and political spheres in the process of development. The proscription imposed at the founding of the Bank was therefore most logically intended to refer to partisan politics. World Vision would agree that it is entirely inappropriate for the Bank to be involved in partisan political issues.

Nationally recognised human rights commitments have, however, already moved beyond partisan debate, they are nationally owned objectives. The CP and ESC rights involved have been accepted not as a result of conditionality but through national political processes – although they do also represent an international consensus on state–society relations.

In particular, the Bank accepts that its rights as an investor and lender include the prerogative to set terms and conditions that enhance the ability of recipients to repay loans and achieve agreed objectives. These conditions greatly shape the scope political discourse and action – indeed the requirement of civil society participation within PRSP processes (which World Vision

strongly supports) was an acutely political step.

The Bank is already engaged in other activities that are considerably more political than simply offering assistance to those states struggling to implement their commitments under the CRC. For example, the Bank had planned FY2003 commitments of over \$100 million for projects dealing with legal and judicial reform. These projects include not only reform to the judiciary but also direct involvement in changes within legislatures.

The Cambodia Legal and Judicial Reform Project, for example, includes an extensive component aimed at substantially changing the operations of the Phnom Penh legislature. The component in question is aimed at developing capacity in 'agencies and institutions; in the case of the National Assembly and Senate, the capacity to consider, initiate, review or adopt legislation'. Such projects seem to have a markedly political dimension.

Put simply, the decision of the Bank to categorise human rights issues as being in the political rather than the economic arena was a highly subjective decision, the basis of which many would have reason to question. In the case of ESC conventions there would seem to be a more immediate connection to 'economic' issues than for some existing Bank projects, such as the Cambodian example mentioned above.

World Vision does support the Bank's recognition that rule of law, legislature, capacity building and so on are important pieces of the development puzzle. It seems ironic, however, that the Bank is willing to tackle these issues without similarly addressing national capacity for rights – which would seem to be another supporting pillar of institutional reform.

### 3.2 Accountability as an economic imperative

The Bank defends the 'economic' credentials of highly political projects involving legislature and judicial reform by pointing out that accountability is critical to the promotion of a conducive environment for investment and growth. By embracing the economic importance of the rule of law, the Bank has pointed to the potential economic benefits of further nurturing a culture of respect for rights. For example, just as there are benefits in respecting and formalising the rights of farmers whose families have tilled the same land for generations without legal title, so there are economic as well as social benefits in protecting the rights of children vulnerable to the worst forms of child labour (as defined in *ILO Convention 182*).

The Bank's current activities to promote the rule of law and responsible legal process cannot be clinically confined to a few individual areas of state competence. The transitory nature of governmental appointments, and of governments themselves, suggests that crucial to effective institution building is the creation of a wider culture of respect for legal process and rights.

In summary, given the considerably more political activities the Bank already undertakes, its insistence that working on human rights is outside its mandate is not tenable. Nor is it logical, given the close inter-connections between rights and other areas of Bank work. Indeed, it is somewhat ironic that the Bank rejects what have become politically neutral and nationally owned objectives on rights while elsewhere engaging heavily in national policymaking processes. Rather, the decision to label fulfilment of the CRC/CEDAW and other conventions as political rather than economic suggests a subjective exercise in political pragmatism, taken more with reference to perceived views of the Bank's

Board rather than with reference to the *Articles of Agreement*.

World Vision would suggest that if this is the case, rather than simply writing off the possibility of the Board approving a role for the Bank in helping individual governments achieve their commitments on rights, this should be put to the test. The Bank should seek Board approval to offer capacity building and other support to those states working to fulfil rights obligations. The Board should also be asked whether it would be willing for Bank projects to more strategically work towards supporting nationally owned objectives on rights.

## Section four: Does the Bank support rights?

### Country case studies

We now turn to three case studies to examine, in more specific and concrete terms, evidence for the Bank's support or otherwise for national implementation of human rights commitments. These country-based assessments reveal that Bank programming would in many instances readily lend itself to working more constructively with governments on national rights commitments. The Bank is working at the heart of the process of change within key social sectors that might, with a little more strategic direction, help to bring closer the realisation of rights.

Perhaps just as importantly, the case studies also reveal that the Bank's own programmes are currently missing important human development issues because of the failure to adequately consider rights. These include fairly basic issues, such as whether an educational reform process should address-cross cutting questions of child protection. The case studies suggest that the Bank has a great deal to offer governments in relation to their national rights commitments – but also that it has a certain amount to gain in sharpening its own thinking and planning.

#### 4.1 Bosnia and Herzegovina

In the case of Bosnia and Herzegovina (BiH), World Vision undertook a desk study to review the World Bank's Country Assistance Strategy, the latest CAS progress report, the available project documentation for the BiH Education Restructuring Project, the Social Sector Adjustment Credit, the Community Development Project and the Local Development Project, the Education Development Project and the draft PRSP. The desk study was followed by

interviews with Bank staff in Sarajevo, World Vision greatly appreciated the constructive dialogue that was possible with the World Bank office in Sarajevo.

The available programme documentation gave no indication of rights being used as a reference tool to assess the positive/negative impacts of Bank activities. Overall, the findings of our desk study suggested that the concept of rights – if invoked at all – is limited to vague goals that coincide with, rather than intentionally address, rights themes (such as the right to education).

In interview, country staff confirmed that although Bank programming may broadly aid the attainment to rights, specific assistance is not normally offered to the government to help it meet its national/international commitments through Bank programmes working in related areas.

#### Country context

Since the signing of the Dayton Peace Accords at the end of 1995, BiH has been relatively peaceful but still bedevilled by the legacy of the conflict. From a population of approximately four million, BiH suffered 250,000 fatalities directly as a result of the conflict with a further 200,000 wounded and 13,000 disabled. The World Bank estimates per capita annual income at US\$1,100 – still some \$900 below pre-war levels. Divided into two entities, BiH has relatively weak federal institutions which are overseen by the international community in the form of the High Representative (Lord Ashdown). Mandated to keep the peace is SFOR, a 'stabilisation' force of 13,000 troops divided into three geographically spread brigades.

Reconstruction in BiH has been aided by large inflows of foreign assistance, particularly from the EU and US, but coordination has been hampered by the large numbers of donors and international

organisations that have taken responsibility for specific areas of reform and rebuilding. With a budget deficit of around 5%, the government and the wider economy are heavily dependent on these resource flows. The government's fragmented decision-making process and stretched central resources create considerable challenges both in implementing human rights conventions and in fulfilling rights reporting obligations.

The World Bank has \$124 million committed to programmes in BiH, with some \$62 million disbursed.<sup>15</sup> Its activities in BiH range from traditional infrastructure investment through to a pilot cultural heritage project. These projects include a \$10 million-dollar IDA-funded education development project, approved in May 2000, which will be followed by a \$30 million education restructuring project. The World Bank education projects include technical assistance in a sector where more recently the Organisation for Security and Co-operation in Europe (OSCE) has taken on a coordinating role.

Although the World Bank is by no means the only player in BiH's crowded and confused international community scene, it is viewed as having the potential to play a pivotal role in promoting human rights. It has significantly more civil society experience than many other multilateral institutions, significant financial resources and human resources (including experienced local staff) and considerable access to national and international actors. The Bank therefore has the potential to play a unifying role in bringing coherence to international development programming in BiH, using national aspirations on human rights as a part of the dialogue.

## Education and children's rights

Lack of reference to the CRC seemed particularly surprising in relation to both the Education Development Project and the Education Restructuring Project, 'a programme to support government reform of the education system'.<sup>16</sup> Bank inputs include both financial support and technical assistance. BiH is a signatory to both the CRC and CEDAW, and the education system would normally play a pivotal role for governments in fulfilling their commitments under these conventions. Where they are resourced to do so, governments can utilise changes in the education system to facilitate improvements in areas ranging from child participation and protection through to the right to play.

The Sarajevo interviews confirmed that the Bank's development of the education reform programme had not included proactive offers to the government to include steps that would further national efforts to fulfil CRC/CEDAW commitments. Bank staff had not themselves referred to the CRC for guidance on prioritising the best interests of the children affected.

As a result, one key aspect of the CRC, children's participation, was neglected by all the actors in the programme, including the Bank. Regional consultations to develop the programme included participation at the tertiary student level (through organised student groups), but had not emphasised the rights of younger children to participate in the development of the new-look education system. Equally, participation by the most vulnerable groups (such as the Roma community and children with special needs) was limited. Because the Bank has not proactively aimed to help the government in its struggle to fulfil its rights objectives, technical assistance and project

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<sup>15</sup> Figures published by the Bank, 23 September 2002

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<sup>16</sup> *BiH Education Restructuring Project, Report PID11598*, Project ID P079226

design efforts in education have not been fully cognisant of nationally owned obligations.

This is a failure that in BiH is most dramatically illustrated by an absence of efforts to address issues of child protection (relating to the sexual and physical abuse of children) within the education reform process. BiH remains culturally conservative in relation to such child protection issues, which often remain undiscussed both locally and in national media. At present, teachers receive no systematic training in child protection issues, nor do most municipalities have well-developed child protection policies. At the national level, legislation on child abuse remains weak, including in relation to education. Indeed the linkages between the education and social welfare sectors on child protection issues are *ad hoc* at best.

The desk study and interviews reveal that despite the serious weaknesses in child protection within the education system, the Bank-funded reform programme failed to address this area of need. The reform process has entailed discussions by the Bank with pedagogical institutes, and involvement in reforming teaching capabilities to ensure the broadening of education away from a primarily vocational focus, however the opportunities provided by these changes in teaching skills and practices were not used to ensure that teachers or schools increased awareness and capabilities in relation to child protection. Nor were access rights specifically considered for those such as the Roma, who may not benefit from the education system at all.

In interview, Bank staff commented that the reform process had not dealt with such cross-cutting themes, focusing instead on the content of teaching. In effect, the process created a 'new' education system premised primarily on the mechanics of taking students through a curriculum production line. Neglect of the principles of child well-being found in the CRC greatly

reduced the likelihood that the project would build a system sensitive to the wider needs of children and accessible by all (whether special needs, Roma or other disadvantaged groups).

BiH has not fulfilled its reporting obligations under the CRC since 1994; it has received five reminders on its first report with its second report now due. The Bank was asked if help had been offered with these reporting needs, given the government's parlous level of resources and its struggle to rebuild after conflict. The answer was that none had been offered. The Bank's pivotal role in education reform has presented it with a significant opportunity to leverage its position among international development actors in order to assist the government in achieving its rights objectives. Sadly, in the education area this opportunity has not been sufficiently grasped.

### **Municipalities and minority rights**

In addition to its education programming, the World Bank funds a number of other initiatives in BiH. An important focus for the Bank is assistance offered to municipalities, particularly through the Local Development Project and the Community Development Project. As with the findings for the education sector, our desk review of Bank documentation and in-country interviews suggest strongly that national obligations under human rights conventions were not included in the initial planning dialogue with municipalities nor are they integrated into the Projects' ongoing activities.

Perhaps the group that may suffer most from this lack of dialogue with local government on Bosnia's stated human rights aspirations is the Roma. A persistent focus on the three major ethnic groups to the detriment of minority groups such as the Roma has been a feature in the development activities of many international institutions and funders in BiH. Without an intentional focus on a human rights

framework, the Bank is unlikely to use its considerable influence on the international community to encourage a more comprehensive approach.

Given the national-level commitment to the CRC, it might be expected that the Bank would work with municipalities to review the relationship between planned programmes and the CRC. Any discussion of 'who' is lagging furthest behind in Bosnia's efforts to meet its own national rights objectives would lead to the Roma. The children of no other community in BiH are as clearly marginalised from mainstream education and services, nor is any group so clearly in need of the provisions of article 2 of the CRC:

States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

Roma communities suffer from a routine failure of social provision of their entitlements in rights conventions – even those that are normally fulfilled for other communities within BiH. Reliable figures for the numbers of Roma are unavailable, since many prefer not to register as such due to discrimination, but groups working directly with the Roma estimate their numbers to constitute 2–2.5% of the total population (including Roma refugees from Kosovo).

Most Roma are geographically settled, often in shanty-style housing, on the edges of major towns, and survive through day labour and refuse collection/recycling. NGOs working with the Roma have noted significantly higher rates of child morbidity than among the general population, and school attendance is estimated at less than 10%.

The Roma are among a cluster of groups in

BiH who face potentially intractable problems with respect to poverty reduction (others include non-veteran people with disabilities, and returnees and other farmers in remote Republika Serbska areas). Municipalities have been known to practise discrimination ranging from feet-dragging in provision of utilities to the relocation of Roma away from their traditional homes and sources of income.



Photo: BiH, John Schenk, Roma children play near a ruined home for the elderly in Sarajevo.

Despite this, a major Bank programme aimed at reaching the very poorest communities is largely dependent on municipal identification of groups to be assisted. The World Bank Community Development Project provides grants to applying municipalities or associations of citizens groups with the intention of extending social provision to the poorest. The application criteria do not, however, seek clarification from applying municipalities on policies/programmes in relation to Roma, which could allow municipal discrimination against this especially vulnerable community to go

unchallenged.

Perhaps this is not surprising, since the planning process for the Project included a consultation element that involved only 'limited' representation from communities.<sup>17</sup> This failure is disturbing and does not sit well with the Bank's overall stated commitment to advance rights (especially the rights of minorities) in development.

### The PRSP process in BiH

The development of the Poverty Reduction Strategy Paper for Bosnia would have provided a good opportunity for the Bank to more fully help all levels of government in achieving national commitments on rights, had it considered these.

At least one NGO working group provided recommendations on the first draft of the PRSP and noted that it failed to deal with many basic questions of minority and child rights – issues that might have been expected to be addressed if the Bank were cognisant of national obligations. In reality it was only this concerted civil society input into the process that many of the issues raised above were specifically addressed in the second draft of the document.

The PRSP's approach to rights remains, however, somewhat vague. The document touches on important related areas such as rule of law, good governance and administrative reform, yet the Bank's role in the development of the PRSP seems to have done little to help in creating a strategy that will deliver on national rights commitments.

### Concluding overview

The desk study and interviews conducted in BiH suggest that the World Bank currently gives little regard to assisting authorities

(the national government, the two cantons, or individual municipalities) in their fulfilment of Bosnia's policy commitments on rights. The Bank has not systematically sought to assist the government in meeting its reporting obligations on its rights commitments, nor has it sought to reward municipalities/institutions that are making good progress or assist those who are struggling.

BiH faces many challenges and obstacles in achieving the complete fulfilment of national commitments to conventions such as the CRC and CEDAW. The failure of the Bank to consider these commitments in its programming and the failure to dialogue with the government on the conventions denies the government a potentially significant source of assistance in achieving its goals.

## 4.2 Nicaragua

World Vision Nicaragua has been operating in the country for over 18 years. For this case study, several documents from the World Bank were reviewed and World Vision International staff travelled to Nicaragua to meet with Bank staff and local civil society groups. Unfortunately, the Bank did not provide World Vision with an opportunity for an interview, despite several requests. Following this, a questionnaire was prepared for Bank staff in Nicaragua, but at the time of publication World Vision Nicaragua had not received back the completed questionnaire.

The documentation reviewed included the Health Sector Modernisation Project, Education Project (2002) – Secondary Education, Education Project – Primary Education, Basic Education Project (2002), Social Investment Fund Project (2003), and the Country Assistance Strategy (CAS) of the World Bank Group for the Republic of Nicaragua (December 2002).

To understand the extent to which Nicaragua has implemented its

<sup>17</sup> *Project Appraisal Document for a Community Development Project*, World Bank, Washington, 29 May 2001, p 18

commitments to the *Convention on the Rights of the Child (CRC)* and *Convention to Eliminate all forms of Discrimination Against Women (CEDAW)*, two other documents were reviewed, namely *Concluding Observations of the Committee on the Rights of the Child: Nicaragua 24/08/1999* and *Concluding Observations of the Committee to Eliminate Discrimination Against Women*.

## Country context

International donors have committed more than US\$4 billion to Nicaragua since 1990, 15% of this from the World Bank.<sup>18</sup> According to the UNDP *Human Development Report of 2001*,<sup>19</sup> between 1995 and 1997, Nicaragua's public expenditure on education was 3.9% of GNP whereas public expenditure on health was 8.3% of GNP. Total debt servicing was 8.3% of GDP in 1999.

Nicaragua ratified CEDAW on 27 October 1981 which entered into force on 26 October 1981. The CRC was ratified on 5 October 1990 which entered into force on 4 November 1990.

From the literature review, there was no mention of the CRC or CEDAW being referred to in discussions with the government on programme objectives. There are also no signs that the Bank referred to government human rights obligations as part of its own due diligence in relation to the design, implementation, monitoring and evaluation (DIME) of its programme lending. However, within the CAS, concerns were raised about property rights, child labour, management of public resources, discrimination against women (e.g. pay differentials) and development of

the Atlantic Coast. Strangely, none of these issues was linked clearly to the national aspirations for fulfilment of rights contained within the CRC or CEDAW.

Within Nicaragua's PRSP, the World Bank Group supports all four pillars of the strategy and it seems that the Bolaños administration of Nicaragua will place more emphasis on the first (broad-based economic growth) and the fourth (strengthening of institutions and good governance).

## Children's rights in education and health

The most disadvantaged children in Nicaragua tend to be girl children, children with disabilities, children belonging to indigenous and minority ethnic groups (such as the Miskito and Rama), children living in or working on the streets, and children living in rural areas. Furthermore, in Nicaragua there are regional disparities between the Atlantic and Central/Pacific regions with the former being less developed, as well as an extensive gap between rural and urban areas. For instance, the Committee on the Rights of the Child voiced its concern about the regional disparities in access to health care, and high rates of malnutrition and low access to health care services in rural areas.

The Basic Education Project has made strides in providing primary and secondary school infrastructure, text books in indigenous languages, improving the skills of teachers, adapting the curriculum to the cultural backgrounds of the indigenous populations, and the provision of scholarships. The project is well placed to help the government fulfil national human rights obligations as it targets the Atlantic Coast Regions which are the poorest and where most of the indigenous people live. Unfortunately, however, there are no indications that the Bank has considered how to strategically use the project to maximise the Nicaraguan government's

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<sup>18</sup><http://wbln0018.worldbank.org/External/lac/lac.nsf/0/d9ed6f433931040c852567dd005b58e7?OpenDocument>

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<http://hdr.undp.org/reports/global/2001/en/pdf/back.pdf>

ability to meet its wider CRC/CEDAW objectives. This seems to be a major missed opportunity for both the Bank and the government.



Photo: Nicaragua, Jon Warren, Children in Nicaragua receive school materials after hurricane Mitch

One area of the government's rights obligations that seems to have been widely neglected by the Bank is that of children's participation. It was not evident from the literature review that children can express their views and participate in the DIME processes of the education and health projects. Equally concerning is the fact that the documentation also provides no indications that the Bank has considered national obligations on rights in relation to the protection of children impacted by its education programme lending. The Bank could potentially help the government to ensure that the education curriculum addresses child protection from violence, abuse, neglect and exploitation as well as promoting child participation. The Bank might also help the government to include aspects of the CRC in the curriculum.

The health sector reform project focuses on building the capacity of the Ministry of Health, improving service delivery, primary health care, pharmaceutical supply and distribution, and rehabilitation and maintenance of hospitals. In addition, the Health Sector Modernisation Credit deals with maternal and child care, extension of Women's Centres, promotion of institutional capacity (MINSA and INSS) as well as expansion of health insurance. This

project targets the rural poor.

The currently available documentation suggests that consideration of nationally owned objectives for the fulfilment of human rights would have led to fuller inclusion of several thematic areas that would seem to offer a good potential fit with the objectives of the loan. Several multilateral agencies are involved in health sector interventions in Nicaragua, which provides a potential area where the Bank could have shown leadership in fostering a multi-agency dialogue on national rights objectives and development programming.

Adolescent health services, childhood nutrition and the increasing rate of children affected by HIV/AIDS seem neglected,<sup>20</sup> and the multilateral projects do not directly address children with disabilities – yet all these issues would have surfaced quickly had a rights discussion taken place.

### Women's rights in education and health

The Social Investment Fund Project is a cross-sectoral project which has three major objectives: to provide small-scale infrastructure in education, health, water and sanitation; training activities and programmes especially for indigenous people and women; and analysis of surveys, evaluations and poverty maps. In many ways this project would seem an ideal way through which the Bank could assist the Nicaraguan government as it seeks to meet its obligations under CEDAW. Yet this project does not clearly stipulate how it would help households that are headed by women. Nor does it address the protection of women and girls from sexual exploitation, domestic violence, trafficking, prostitution and sex tourism.

Gender-sensitive curricula, teachers and

<sup>20</sup> Concerns regarding children infected by HIV/AIDS have been raised by the Committee on the Rights of the Child, (CRC/C/80).

trainers are essential to combat negative stereotypes of the roles and responsibilities of women. Within the indigenous groups in the Atlantic Region there is a high level of illiteracy among the women. Current Bank programme lending would, with only relatively minor changes, have been good vehicles to help the government address these problems, but the Bank's projects do not even address issues such as adult literacy.

The government's efforts to meet its obligations under CEDAW are probably the most needlessly neglected aspect of the Bank's indifference to national human rights aspirations. Bank assistance in this area would fit with the existing pattern of programme lending and could be hugely beneficial. As it is, however, the government is left to address unaided a situation in which women suffer from low wages, unemployment, limited access to credit, lack of decision-making power and low participation.

It would have been encouraging even for Bank documentation to suggest that the Basic Education Project would ensure that male and female teachers receive equal pay in accordance to their qualifications and experience. Or that the education curriculum would help raise awareness of the devastating effects of abuse, violence, exploitation and neglect of women and girls.

### **Concluding overview**

The story of World Bank programme lending and national obligations on human rights in Nicaragua is one of missed opportunities. With relatively small changes of emphasis, Bank lending could have been leveraged to provide the government with maximum opportunities for fulfilling its obligations. Instead it appears that the Bank has done little to proactively offer to the government the option of framing lending projects in a way that facilitates either meeting obligations or addressing concerns

raised by the Committee on the Rights of the Child. The Bank seems to have assumed that the government would not wish to move closer to fulfilment of its obligations through vehicles such as the education project or community development project.

Problems encountered in interviewing or gaining the insights of World Bank staff in Nicaragua perhaps point to a closed approach to these questions. If this is the case, it is a sad reflection of the difficulties faced by Nicaragua as it seeks to fulfil the aspirations on human rights articulated in its decision to ratify the CRC, CEDAW and other rights conventions.

### **4.3 Azerbaijan**

The research for this report was undertaken through a desk review of documents available on the World Bank's work in Azerbaijan, as well as a telephone interview with Bank staff in Azerbaijan. The documents examined include: Education Development Project, Health Project, PRSP letter and Country Assistance Strategy (CAS).

#### **Country context**

Azerbaijan is a transition economy and a transition state. Since gaining independence from the Soviet Union in 1991, it has struggled to maintain previous levels of investment in the social sector in the face of declining GDP. Coupled with the economic downturn, the country was involved in a dispute with neighbouring Armenia which threatened to split the country. There are now over 800,000 internally displaced persons (IDPs) living in Azerbaijan.

The annual GDP per capita of Azerbaijan is approximately US\$500. Azerbaijan is, however, rich in oil, the revenues of which could be used to help propel the country into sustained prosperity.

Since independence, Azerbaijan has worked to become a member of the international

community. It has joined the Council of Europe, and become a signatory to a number of international human rights conventions, including the *Convention on the Rights of the Child* (CRC). After an initial submission to the UN Committee on the Convention of the Rights of the Child in 1994, however, the country has failed to produce another report and is currently late in its submission.

Azerbaijan's status as a country in transition means that many aspects of the Soviet legacy are still visible. Therefore, although the country has embraced human rights objectives the fulfilment of these would represent a significant national shift in the culture of governance. Fulfilling these obligations is challenging for governments seeking to use a state machinery that was not designed with such issues in mind. The need for external technical assistance and support in adapting state structures (such as education) to an approach that promotes national rights objectives is therefore acute.

### **The World Bank in Azerbaijan**

The World Bank has worked in Azerbaijan since 1992, authorising its first loan in 1995. Since that time, the Bank has committed US\$531 million to the country, of which \$301 million has been disbursed. The focus of the Bank's lending has been in the following areas: governance, law and finance (34% of total lending); industry and transport (32%); agriculture, water and sanitation, and rural development (28%); and also education and health (6%).<sup>21</sup>

The Bank has recently approved a PRSP for Azerbaijan and also developed a new Country Assistance Strategy released in May 2003.

While the World Bank is not the only multilateral development bank operating in

Azerbaijan, it is by far the largest lender. The Bank is therefore an important provider of both development finance and also technical assistance to the government. The scale of resourcing for governance, law and finance reflects a recognition on the part of the Bank that institutional capacity is an area that needs to be addressed. In countries in transition, the problems of achieving structure change in state machinery can be acute, and the Bank in some ways is still almost certainly at the start of a long process.

Due to its positioning on issues of reform in sectors such as governance and administration the Bank is considerably better placed than other donors/lenders in Azerbaijan to offer assistance to the country in achieving its rights objectives. No other external actor is involved in so many areas that are central to the government's performance in meeting its rights objectives. It is fair to say that without assistance in these sectors on rights from key partners such as the Bank, the government will inevitably struggle to fulfil its agreed obligations.

Yet the desk review found no evidence of the Bank systematically offering assistance to the government in fulfilling its rights objectives, and this was confirmed in the telephone interview. The only reference to rights in country documentation, was related to property rights and the creation of an enabling environment for business investment. The overall record of the Bank on human rights in Azerbaijan was summed up by one Bank staff person as 'ad hoc'.

This is not to say, however, that the Bank is entirely uninvolved in rights issues. While it has not included human rights in any of its lending instruments, it has approved a few small human rights projects from its country discretionary fund. These projects are undertaken by outside agencies.

<sup>21</sup> This figure does not include the proposed \$18 million Education Development Project.

## Children's rights in education

The Education Development Project does not make any reference to human rights or the CRC. Instead, it focuses on ensuring teaching is focused towards a market economy and democracy. Reforms of the education sector to be funded by the Bank focus on efficiency, teacher training and text books. These areas, particularly the latter two, would normally be seen as essential vehicles through which governments promote the fulfilment of obligations under the CRC.

Bank documents, however, make no mention of the important role education has in developing and ensuring an awareness of human rights for children. Nor is there any mention of the potential role in meeting CRC obligations that can be played by teacher training and text book reform. The absence of any conceptual link between the Bank's leading role in areas of educational reform and national aspirations of rights leads to some surprising gaps. For example, there is no discussion of the potential role of teachers in identifying and aiding children who are subjected to violence and abuse.

Participation is also an important right for children. Some elements of the documentation do encourage the participation of children as stakeholders but this is applied in an ad hoc basis. While the main lending vehicle, the Education Development Programme, includes a survey of stakeholders to gauge their opinion of the current education system, it does not have any process of consultation on the details of the actual programme with either parents or children. There is no requirement that this be undertaken nor is there funding provided within the budget of the programme.

This is in contrast to the Environment element of the development of school infrastructure. In this arena, the Ministry of the Environment has undertaken a number

of consultations with staff, students and parents, seeking input on a programme of upgrading school infrastructure. Such positive inputs should be mandated in all of the Bank's programmes.

## Health

In the health sector the Bank has demonstrated an uneven approach to rights: incorporating the empowering provision of community participation when projects are carried out or instigated by another agency, but not including it into its own sphere of operations.

The Project Appraisal Document for the Health Reform Project, dated 16 May 2001, also throws some light on the Bank's understanding of the rights implications of its lending activities. The appraisal discusses the over-supply of doctors and beds per head of population, but determines this as an economic matter and not a question of access and right to health along the lines articulated in the CRC. Overall, within country documents there are few linkages made between rights and access to essential services.

Interestingly, however, where the project overlaps with UNICEF, the Bank accords a much more participatory approach. Indeed, the health project incorporates participation following UNICEF's lead: 'The implementation district component would follow the ongoing UNICEF experience, which involves considerable community consultation and participation...'.<sup>22</sup>

The World Bank in Azerbaijan has gone further, under its own initiative, than other Bank offices, by seconding a UNICEF staff person to help devise its health sector programme. According to Bank staff, the work of this person is limited by the

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<sup>22</sup> World Bank, *Project Appraisal Document on a Proposed Learning and Innovation Credit for a Health Reform Project*, 16 May 2001, p 20

secondment agreement to issues relating to access by the poor to health services. World Vision's understanding is that the seconded staff person is obliged *not* to promote a rights framework in Bank projects. UNICEF's involvement has, however, promoted greater community participation in planning local services as the Bank will be using an existing UNICEF programme which has such participation as part of the design.<sup>23</sup>

### Concluding overview

In the context of Azerbaijan, the World Bank cannot view itself as a neutral actor in relation to the government's ability to fulfil its rights objectives. The Bank is so closely involved in so many areas critical to the fulfilment of rights objectives that anything other than a committed, strategic and supportive role will greatly limit government progress.

The desk review and phone interview both reveal an overall lack of attention by the Bank to its impact on national efforts to achieve rights objectives. The Bank's activities in the education and health sectors are having a significant impact on these essential vehicles for implementing the CRC, CEDAW and other rights commitments, yet the opportunity to make this impact systematic and constructive has gone unaddressed.

Few countries offer the World Bank such a clear opportunity to leverage its role for maximum effect in enabling governments to meet their own national rights obligations as Azerbaijan does. The high level of Bank involvement in governance and legal issues shows a recognition by the Bank that capacity building and institutional reform are essential; it is a great shame that the Bank has not embraced the country's own rights aspirations within this approach.

### 4.4 Conclusion to the country case studies

The country case studies show that the Bank has a unique role in relation to other multilateral lenders and official donors. The Bank is involved closely in processes of national reform and governmental capacity building, and on a significant scale. The Bank is therefore uniquely placed to offer its technical assistance to governments on the question of how to use reform as part of the process of realising national rights commitments. Radical changes to Bank practices are almost certainly unnecessary: the Bank is already active in sectors where a rights-friendly approach could readily be integrated into processes of reform.

Without such offers of assistance it is unlikely that governments lacking resources, many of them emerging from conflict, will automatically see the potential connections between processes of reform and progress on rights. It is therefore important that the Bank be proactive in initiating dialogue on rights issues with counterparts.

In addition to helping governments in the gradual realisation of the rights of their citizens, such proactive steps taken by the Bank might also deepen and enrich the planning of Bank-funded programmes. Certainly it would make more likely the consideration of key cross-cutting problems that might otherwise reduce the potential human development impact of the initiative in question.

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<sup>23</sup> *Ibid.*

## Section five: Recommendations

World Vision urges the World Bank to urgently reconsider its approach to human rights in development, particularly at the national level where governments have already adopted commitments on rights through signing and ratification of international instruments.

World Vision believes that the Bank can make a considerable contribution to the ability of states to achieve rights objectives. Part of this contribution should be a strategic and proactive attempt to support rights through programme lending activities and technical advice. There is no reason why a concern for rights should constrain lending nor add unduly to the complexities facing Bank staff. The Bank can achieve a great deal by simply sensitising its existing work to rights commitments, including its accepted commitment to the issue of empowerment.

As important parts of this process, the Bank should:

1. Accept that offering help to governments in achieving their national rights objectives and international obligations is no more of a political activity under the terms of the *Articles of Agreement* than judicial and legislative reform and than many aspects of conditionality.
2. Operate on the assumption that governments wish to fulfil their stated national rights obligations and objectives. Existing commitment to rights conventions, representing both the national and international consensus on rights, should automatically be part of the programme lending dialogue.
3. Provide technical assistance and capacity building to governments to strengthen their ability to achieve rights

commitments, as the Bank currently does in the field of empowerment.

4. Provide technical assistance to governments on rights reporting.
5. Undertake a rights impact analysis, as part of planning and due diligence for Bank programme lending/grants, that would identify:
  - a. how Bank-funded initiatives can maximise progress towards national rights commitments, and
  - b. what key rights issues may be absent from programme planning, with direct negative consequences for citizens.
6. Revise operational policy guidelines to include the need to assist governments in fulfilling their rights obligations, most urgently in areas such as education.
7. Seek the endorsement of the Board of the World Bank for Bank-funded projects designed to help governments achieve their rights objectives – thus testing the willingness of the Board to accept such a role for the Bank.
8. Provide rights-based training for policy and programme staff at the Bank, particularly nationally based staff and develop best practice on the role of lending in supporting efforts to achieve national rights obligations.
9. Ensure effective liaison with UN and other multilateral agencies with a view to creating greater consistency between all multilateral bodies on human rights issues.

Human rights, including children's rights to survival, protection, participation and development, are too critical to be marginalised from processes as critical as those in which the World Bank is engaged. As a Christian NGO World Vision believes that true 'human rights' are God given, a

recognition of the unique worth of each person created in God's image. For those rights to be routinely ignored by institutions with little regard for human development and the well-being of the poor might be expected. It is, however, deeply disturbing to find them marginalised in the work of the

World Bank, an institution that has otherwise made great progress in advocating for the needs of those who live in poverty.

**World Vision** is a Christian relief and development partnership that serves more than 85 million people in nearly 100 countries. World Vision seeks to follow Christ's example by working with the poor and oppressed in the pursuit of justice and human transformation.

Children are often most vulnerable to the effects of poverty. World Vision works with each partner community to ensure that children are able to enjoy improved nutrition, health and education. Where children live in especially difficult circumstances, surviving on the streets, suffering in exploitative labour, or exposed to the abuse and trauma of conflict, World Vision works to restore hope and to bring justice.

World Vision recognises that poverty is not inevitable. Our Mission Statement calls us to challenge those unjust structures that constrain the poor in a world of false priorities, gross inequalities and distorted values. World Vision desires that all people be able to reach their God-given potential, and thus works for a world that no longer tolerate poverty.



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