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Human Rights and Financial Institutions: Pinning the Responsibility

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This paper is a study of the possible human right obligations of international financial institutions. As financial institutions have not been looked upon as agencies influencing or influenced by human rights, this study becomes significant. The study is limited to international financial institutions, with a special focus on the World Bank (hereinafter 'Bank') and the International Monetary Fund (hereinafter 'Fund' or 'IMF').² Further, there is a special focus on developing nations.³

Introduction

The responsibility and accountability of international and transnational actors and intra-governmental organizations has been addressed by many scholars in the 20th century.⁴ Human rights at the national level has become a matter of international concern. In this context, the role of international financial institutions (hereinafter 'IFIs') in protecting and promoting human rights is under increased scrutiny. The responsibility called for is both of a political and a legal nature.⁵

International financial institutions are set up by Articles of Agreement which are international treaties governed by international law.⁶ International human rights are a part of public international law. Initial writings and work in this area was limited to whether the institutions should support regimes that violate

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² Majority of the nations in the world are members of the World Bank and the International Monetary Fund. Most of the international public debt of countries is owed to the World Bank and the IMF. OECD, *Financing And External Debt Of Developing Countries, Survey* (1989).

³ Most of the countries that draw on their funds in the IMF or get support from the World Bank belong to the developing nations or 'third world' countries. The financial policy of the financial institutions has a direct impact on the political and social framework of the country.

⁴ MA Geer, 'Foreigners in their own land: Cultural Land and Transnational Corporations – Emergent International Rights and Wrongs' (1998) *Virginia Journal Of International Law*, 38; KA Rodman, 'Think globally, punish locally: Non-state actors, multinational corporations and human right sanctions' (1998) *Ethics and International Affairs*, 12.

⁵ Sigrun Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund* (2001) 1.

⁶ IMF's Articles of Agreement, art XXXI; World Bank's Articles of Agreement, art XI.

human rights. Later, the regulation of the lending policy of the institutions was the connection to human rights and these institutions. Today, the financial institutions promote human rights and undertake affirmative action programs to further the same. Conditions wherein positive human rights performance is necessary for continued assistance have been imposed.⁷ The author looks at whether the mandate of the financial institutions extends to human rights, whether it extends to all human rights, the political prohibition principle, conditions and their impact and dispute resolution in such organizations. While attempts have been made to link broadly defined reforms of the Bank and the Fund to human rights law,⁸ rarely has there been an attempt to carry out the study by application of international legal rules and proper interpretation of the mandates.⁹ This paper attempts to undertake a legal study of human rights obligations of the international financial institutions.

Functions of the IFIs

Within the framework of the Articles of Agreement, the World Bank and the IMF are involved in two-major lending activities – project lending and balance of payment support happening through structural adjustment programmes.¹⁰ Projects are developmental projects for which money is provided. Programmes cover a wide range of issues that are less easily identifiable. Such interpretation by the IMF Board has confirmed a wide discretion in the determination of capabilities of the IMF.¹¹ The Articles of Agreements clearly favours project loans and this is reflected in the working of the institutions.¹² The preference of definite projects over programmes shows that a case for promotion of human rights by the IFIs could be made if proven within legal competency of the institution.

The World Bank enters into loan agreements with governments who will then be in charge of the projects. It may also enter into agreements with other entities within a member state, but then the Bank will also enter into a Guarantee Agreement with the government of that member state.¹³ IMF enters into loan agreements with member states only and no money is disbursed to

⁷ Tomasevski, *Between Sanctions and Elections: Aid Donors and their human rights performance* (Pinter 1997).

⁸ Bradlow, 'The World Bank, the IMF and Human Rights' (1996) *Transnational Law and Contemporary Problems* 47, 6; Rajagopal, 'Crossing the Rubicon: Synthesizing the Soft International Law of the IMF and Human Rights' (1993) *Boston University International Law Journal* 11.

⁹ Mac Darrow, *Between Shadow and Light: The World Bank, the International Monetary Fund and International Human Rights Law* (2003) 2.

¹⁰ Skogly (n 5) 153.

¹¹ Denters, *Law and Policy of IMF Conditionality* (1996), 1996

¹² Skogly (n 5) 17.

¹³ Articles of Agreement and Bank's Loan and Guarantee Regulations (1985).

private parties. It is evident that the primary parties in this area of law are the institutions and the government of the borrower nation.

The legal nature of the relationship between the organizations themselves and individual member states have a multi-faceted character.¹⁴ The credit agreements are based on a 'stand-by' arrangement which do not represent contracts between IMF and the borrowing state, but are seen as instruments of 'soft law'.¹⁵ Two elements of the stand-by arrangements influence their legal interpretation – one, IMF's guidelines on conditionality for the use of the Fund's resources and for stand-by arrangements; and two, the 'performance criteria' of the economic programme set forth in the member's letter of intent that the IMF selects as indicators of the progress of the programme.¹⁶ The performance criterion is supposed to be objective in character and deviation from the same, intentional or not, is not a breach of obligation.¹⁷ The stand-by arrangements are not registered¹⁸ and they lack contractual character.¹⁹

To conclude, the functions performed by the IFIs find their basis in the Articles of Agreement and the agreement between the institution and the government is not a legal contract.

Legal Status of Articles of Agreement

Articles of Agreement of IFIs have been drafted and formed in a similar way to international treaties. They have to be ratified by Member States to come into force.²⁰ Articles of Agreement serve as two important legal purposes – one, as international treaties establishing the organization and describing the rights and obligations of the states; and two, as constitution of the organization giving the principles and purposes that shall guide the organization in its daily operation.²¹ The Articles of Agreement provide for rights and obligations of the members and the organization. The framework for the internal law of the organization is supplemented by the by-laws and the various rules of conduct and directives. In international law, the general principle is that the law should be determined with a view to the text of the agreement²² and the intention of the drafters.²³

¹⁴ Skogly (n 5) 28.

¹⁵ Denters (n 1) 90.

¹⁶ Gold, *Interpretation: IMF and the International Law* (1996) 352-353.

¹⁷ *Ibid* 353.

¹⁸ Charter of the United Nations, art 102.

¹⁹ Denters(n 11) 101.

²⁰ IMF Articles of Agreement, Article XXXI, s 10; IBRD Articles of Agreement, Article XI, s 1.

²¹ Schermers & Blokker, *International Institutional Law: Unity within Diversity* (3rd edn 1995) 713.

²² Seyersted, 'Applicable law in relations between intergovernmental organizations and private parties' (1967) III(122) *Academic De Droit International* 440.

IMF's and World Bank's status as specialized agencies of the UN was obtained through an agreement entered into with the Economic and Social Council of the UN in accordance with Articles 57 and 63 of the UN Charter.²⁴ Such agreements stress the independent nature of the financial institutions.²⁵

Having noted the legal standing of the Articles and the contractual nature between IFIs and member states, the researcher analyses whether the mandate of the IFIs extend to human rights.

Does Mandate of the IFIs Extend to Human Rights?

This section examines whether the mandate of the IFIs extends or could extend to human rights. There are two dimensions to this operational issue. The first is the protection of human rights, which concerns the obligations of the financial institutions to help stop human rights abuses perpetrated by their member states. The second is the promotion of human rights, which concerns the obligations of the financial institutions to actively seek to improve the human rights situation in their member states.²⁶

Nowhere in the Articles of Agreement of the institutions is the term 'human rights' mentioned. Some reading of human rights can be made from the purposes of the institution²⁷, but it is difficult to make any direct human rights connection. Article 1 of the Articles of Agreement of the World Bank and the IMF specify the purposes and functions of the fund. Article V, 3(a) of IMF Articles of Agreement limits the scope of operation for the institution. On 17 March 1948, the Fund clarified that the phrase 'consistent with the provisions of this agreement' in the above provision means consistent both with the provisions of the Fund agreement as well as the purposes of the Fund contained in article 1.²⁸ This means that the acts of the institutions are to be consistent with the provisions of the articles and the purposes and objectives of the organization.

Skogly contends that the two institutions claim an inability to deal with issues of human rights on the twin basis : one, not mentioned in the statutes (Articles of Agreements) and two, that there is an explicit prohibition on interference in

²³ Schermers and Blokker (n 20) 1123.

²⁴ Agreement between the United Nations and the International Monetary Fund (15 November 1947) ; Agreement between the United Nations and the International Bank for Reconstruction and Development (15 November 1948).

²⁵ Article 1(2) of the Relationship Agreement between UN and IBRD.

²⁶ Bradlow, 'The World Bank, the IMF and Human Rights' (1996) 6(1) *Transnational Law and Contemporary Problems* 47, 51

²⁷ World Bank's Articles of Agreement, art I(iii); the IMF's Articles of Agreement, art (ii).

²⁸ Decision 287-3 (17 March, 1948).

the political affairs of any member of the organization.²⁹ In this section, the former is dealt with and the latter is discussed later in the paper.

Historically, IFIs have sought to avoid any association with human rights concerns, which they labelled ‘political’ and hence, outside their legal competency.³⁰ However, the position of the same has changed over the years. The Articles of Agreements of IMF and World Bank were drafted more than 60 years ago and very few amendments have been made to them. Still, the institutions have not become static. If anything, they have shown dynamism and an ability to respond to changes in international order.³¹ Now, not only do IFIs acknowledge human rights obligations, they also take positive steps to promote human rights through their projects and programmes. Darrow notes that the general position of the Bank on human rights issues is that explicit engagement in human rights is beyond its mandate as a development agency, but that in indirect terms human rights are indirectly enhanced by the Bank’s work.³²

To conclude, human rights can be read into the mandate of the IFIs. Not only can human rights be taken into account by the institutions; rather they very much are supposed to be.

Do IFIs Have Legal Human Rights Obligations?

The first issue herein is whether the assistance received from foreign or international donors is on the basis of discretion of the donors or as an implementation of rights. It is established that once an arrangement has been agreed to, the terms are conclusive and legally enforceable. Taking as a given that the assistance is a matter of a right, the researcher looks at whether there is any valid human right obligation.

Foremost, it is established that international organizations may be responsible to other entities.³³ One of the criticisms of the international human rights regime is the ‘legal accountability deficiency’³⁴. A similar criticism applies to specialized agencies when no reaction or sanction is warranted for breach of certain rules and regulations. The IFIs’ agreements and arrangements are not legally binding documents in a traditional sense and are governed by ‘soft law’.

²⁹ Skogly (n 5) 76.

³⁰ Patricia Armstrong, ‘Human Rights and Multilateral Development Banks: Governance Concerns in Decision Making’ (1994) 88 (6-9) *Proceedings of the Annual Meeting (American Society of International Law)* 277, 278.

³¹ Skogly (n 5) 17. She concludes the same on the basis of their changing nature of operations.

³² *Development and Human Rights: The Role of the World Bank* (1998).

³³ ILC, 1 Yearbook of the International Law Commission 40 (1980).

³⁴ Skogly (n 5) 13.

There is sufficient sanction for breaching international law instruments and IFIs does not suffer from legal accountability deficiency. This has been noted in the dispute resolution section of this paper.

Specialized agencies of the UN such as the World Bank and the IMF are legally obligated not to conduct actions contravening the principles and purposes of the UN Charter and to respect the same, including the human rights provisions.³⁵ Provisions of the UN Charter are given supremacy under international law.³⁶ International organizations are bound by any obligations incumbent upon them under general rules of international law.³⁷ Even if general principles of international law are not in conformity with the most efficient way of achieving the objectives of the organization, they represent norms that international institutions need to respect.³⁸ Thus, IFIs have a duty to respect all international human rights treaties and covenants. It is admitted that only parties to the covenants have full (material and procedural) obligations. International financial institutions are not and cannot be parties to them. While it can be theoretically argued that treaty law may bind organizations without their consent, it has been established that treaty law precludes obligations for third parties unless they have explicitly accepted such obligation.³⁹ The covenants or any other international human rights treaty cannot impose direct substantive legal obligations for the specialized agencies of the UN. But, the financial institutions are created by and are composed of governments. The governments are obliged to respect human rights not only nationally, but also when acting internationally.⁴⁰ Thus, the member states which are also parties to international human right instruments⁴¹ have to act in accordance with the same and cannot enter into an arrangement that violates human rights. The international institutions act as financial analysts and financial assistance is dependent on the approval of the economic policies and agenda of the country.⁴² This limits the scope of government's policies choices while designing projects and programmes in co-operation with international financial institutions.⁴³ Also, it leads to IFIs acting such that human rights violations do not occur by a member state as a result of the arrangement. The legal counsel of the Bank has claimed that the Bank will not finance projects

³⁵ Amerasinghe, *Principles of the Institutional Law of International Organizations* (1996) 246-247.

³⁶ UN Charter, art 103.

³⁷ ICJ on the interpretation of the Agreement of 25 March, 1951 between WHO and Egypt.

³⁸ Darrow(n 8) 127.

³⁹ Skogly (n 5) 84.

⁴⁰ Skogly (n 5) 109.

⁴¹ About two-thirds of the members of the Bank and the Fund have ratified the two covenants on human rights.

⁴² Killick, 'IMF Programmes in Developing Countries: Design and Impact (1995)', 57 in Korner, *The IMF and the Debt Crisis: A Guide to the Third World's Dilemmas* (1986) 2.

⁴³ Skogly (n 5) 143

that contravene an international agreement to which the member country concerned is a party.⁴⁴ Further, international organizations are under obligations stemming from customary international law, normally of a negative character. They are obliged to act in accordance with the field of international human rights law.⁴⁵ This is strengthened by the status of the institutions as specialized agencies of UN. The obligation to respect is generally fulfilled through non-interference. Though most of the obligations shall be negative, certain positive obligations can arise for international financial institutions based on their Articles of Agreement or from treaties to which the institutions are parties.

To conclude, the nature of human rights involves an entitlement-obligation relationship, in case of IFIs which, the obligation falls on the member state as well as the IFIs and the entitlement is enjoyed by every person that can be affected by the right. The obligations, if any, vary not only according to the human right instrument; but also whether the state is a creditor or a debtor in the financial institution setting. The IFIs have legal obligations that have to be taken into account while designing, implementing and evaluating their own policies.

Does the Mandate Extend to Political Rights?

The Bank and its officers are prohibited by its articles from interference in the political affairs of any of the members; and that the political character of a member state shall not influence any decisions. On this basis, it is argued that the Articles of Agreement prohibit any attention to human rights. The political prohibition principle exists as political manipulation of the institutions by members in pursuit of their perceived national interests may be unavoidable once political considerations are allowed to be freely taken into account.⁴⁶

Consistent with the growing appreciation of human rights' relevance, the Bank expanded its mandate to include attention to human rights and popular participation, but without distorting its Articles and without conceding that all human rights can be considered.⁴⁷ Shihata argues that while the purposes of the Bank have been exhaustively laid down, the functions which allow the Bank to serve such purpose may be expanded as deemed necessary or desirable.⁴⁸

⁴⁴ Ibrahim Shihata, *The World Bank Inspection Panel* (1994) 141.

⁴⁵ Amerasinghe (n 35) 241.

⁴⁶ Ibrahim Shihata, 'Human Rights, Development and International Financial Institutions' (1993) 8 *American University Journal on International Law and Policy* 27, 36.

⁴⁷ D Gillies, 'Human Rights, Democracy and Good Governance: Stretching the World Bank's Policy Frontiers' in Griesgraber and Gunter (eds), *The World Bank: Lending on a Global Scale* (1996) 120.

⁴⁸ Ibrahim Shihata, *Issues of Governance in Borrowing Members: The Extent of their Relevance under the Bank's Articles of Agreement* (1990) 13.

Chowdhury argues that though hesitation about the lawfulness of inclusion of civil and political rights persists because of statutory prohibition of political activities, a literal reading of the Articles of Agreement should be avoided and the interpretation should be subject to the current changed environment.⁴⁹ The activities of the Fund and the bank are such that they inter alia imply respect for civil and political rights. He argues that a contemporary legal interpretation of the Articles would require that the doctrine of prohibition of political activities is applied in such a way that civil and political rights do not fall within it.⁵⁰ There is no need to provide automatic non-lending in case of violations. Only gross and consistent violations of civil and political rights shall render circumstances unfavourable to economic development such that financial support cannot be granted. Such a relationship between the civil and political rights and the social and economic developmental process must be regarded as an effective guarantee against political (and arbitrary) interference into domestic political affairs of the member states.⁵¹

Further, it has been observed that the activities of the World Bank and the IMF institutions affect economic and social rights more than civil and political rights, as a result of the nature of their policies and the sectors of society the policies target.⁵² The Economic and Social Rights Covenant foresees a more active role of the specialized agencies than the Civil and Political Rights Covenant in the implementation of rights.

To conclude, a case for human rights not to fall within the agenda of the financial institutions could be based on two arguments. One, human rights belong to the sphere of domestic politics and attention to the same would be contrary to the provisions in the Articles. Two, attention to human rights, particularly political rights, shall violate the provision in the Articles. The researcher opines that human rights are issues of legitimate international concern and the institutions' attention on their own human rights performance cannot be considered undue interference. Further, gross violations of human rights affect the economy of the country, and possibly the world, and thus, interference is warranted.

⁴⁹ SR Chowdhury, *Right to Development in International Law* (1992) 394.

⁵⁰ Ibid 395.

⁵¹ Ibid 396.

⁵² Donnelly & Howard, *Human Rights Self-monitoring: A proposal for the Northern European Democracies* (1996).

Conditionalities and Do IFIs have Legal Human Rights Obligations?

Economic conditionalities and political conditionalities are the two kinds of conditionalities that are usually imposed. The institutions are reluctant to use economic justifications for involvement in areas that, on first sight, do not seem to be closely linked to economic factors.⁵³ This is done to maintain the legality of the transaction as the Articles of Agreement prohibit the institution to take any consideration other than an economic one when deciding loans.⁵⁴ In this section, the researcher shall analyse the conditionalities of the IFIs and their impact on human rights obligations.

In 1960s and 1970s, certain actors called for the abolition of support of international financial institutions to regimes responsible for massive human rights violations, notably Portugal and South Africa.⁵⁵ The Bank refused the same on the ground of 'non-interference' in matters other than economic. IMF had been adamant that the human rights remain outside the scope of the Fund's activities and a responsibility of individual governments.⁵⁶ However, this stand changed over the years. During the 1980s, the Bank became increasingly active in areas not considered economic traditionally.⁵⁷ In an unprecedented step, the World Bank linked human rights to loans to Indonesia in September 1999.⁵⁸

Today, Skogly opines that due to increased attention paid to governance and social effects of adjustment policies, the World Bank and IMF focus attention on matters that may impact national or domestic human rights situations in member states.⁵⁹ The legal counsel of the World Bank, Ibrahim Shihata, has stated that the Bank does promote human rights through its activities, and especially economic, social and cultural rights.⁶⁰

⁵³ Skogly (n 5) 25.

⁵⁴ Though the IMF Articles of Agreement does not have a similar provision, it emphasizes in its role in dealing with issues linked with economic performances and not political ones. World Bank, Articles of Agreement, art IV, s 10,

⁵⁵ Skogly (n 5) 36.

⁵⁶ Statement of the representative of the IMF to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its 43rd Session, Written Statement submitted by IMF, UN DocE/C4/Sub2/19991/63, 7.

⁵⁷ Armstrong (n 30) 279.

⁵⁸ Knox, 'Key Lenders tie money to rights: World Bank, IMF take untraditional step of officially linking loans to peace efforts', *The Globe and Mail* (15 September 1999).

⁵⁹ For instance, during Article IV consultations with its members, IMF discussed issues like governance, employment policies, social safety nets, military expenditure and environmental issues. Many of these will have a direct effect on the domestic human rights situation. Skogly (n 5) 36.

⁶⁰ Ibrahim Shihata, *The World Bank in a Changing World: Selected Essays* (1991) 133.

Irrespective of the Bank's stand, it must be noted that the institution is fundamentally a political institution subject to the political wills of the members, particularly major donors.⁶¹ For instance, pressure from the United States effectively imposed an embargo on assistance to Vietnam. This shows that the institution is unable to fulfil the provisions of its Articles and should be held accountable. The researcher notes that this is a practical problem that is based on politics and international relations and does not hold significance in this theoretical discussion. Similarly, a conflict between two rights or two different groups may arise. Harmonious construction is to be preferred and trade-offs to be avoided. If not possible, the core content of the right is to be analysed and a decision made on a case-by-case basis. Rights are to be interpreted as accommodating interests of both the groups.

Although the IFIs have claimed that they promote human rights through their programmes, the institutions have not undertaken a systematic human rights evaluation of any programme. While the Bank claimed that it has always taken measures to ensure that human rights are fully respected in connection with the projects it supports,⁶² no discussion on what the measures were or how they were to be employed has taken place. Further, despite acknowledgements of the positive role they could play, the institutions have never acknowledged any positive obligation to respect, protect or promote these human rights.⁶³ While continued criticism has prompted IMF to increase the attention to social cost of adjustment, it does not use the human rights language at all.⁶⁴

To conclude, conditionalities have an impact on the human rights situation. Human rights are directly linked to credit lending and financial programme funding the scheme. Darrow observes that the official policy of the Fund concerning conditionality remains vague and permits the institution a high degree of flexibility in its policy prescriptions.⁶⁵ Conditions set by IFIs can have a decidedly negative or positive influence, both directly and indirectly, on the attainment of human rights. However, there is nothing in the Articles of Agreement that prevent the institution from taking human rights issues into consideration as to the effects of their operations, along with economic considerations. Further, though the IFIs have refused to acknowledge any positive human rights obligations, they have acted responsibly and have

⁶¹ Armstrong (n 30) 279.

⁶² Reference (n 33) 2.

⁶³ Skogly (n 5) 39.

⁶⁴ Ibid 41.

⁶⁵ Darrow (n 9) 48.

fulfilled the obligation of protecting human rights. The conditionality practice has evolved over time with a need to adapt to a new clientele in a changing environment.

Dispute Resolutions in IFIs

The institutions have, in their Articles of Agreement, conferred the ability to institute legal proceedings and have legal proceedings brought against them.⁶⁶ It is noted that a judicial process against an international institution is barred by either an express provision⁶⁷ or immunities and privileges⁶⁸ or the reluctance of the national and municipal courts to accept such cases.⁶⁹ Still, people suffering from violations of human rights as a result of a financial project or programme could possibly sue their own government for lack of fulfilment of human rights as a result of their agreement entered into by the two institutions.⁷⁰

The Articles of Agreement of the international financial institutions do not set up dispute settlement structures as such. Article XXIX of the Articles of IMF provides the Executive board with the role of settling any disagreement between the Fund and any of its members on the interpretation of the provisions of the Articles. An arbitration clause has been provided for disputes between the Fund and a non-member and a member in the process of withdrawing from the Fund. The World Bank established an Inspection Panel in 1993 whose mandate has been set out in the Resolution.⁷¹ Bradlow states that this is the first body established where a private party can hold an international organization directly accountable for its actions.⁷² It is noted that a single individual cannot file a complaint; the same can be filed only by an organization, association, society or a group of individuals. Also, the complaint can be filed only with respect to an act or omission by the Bank in regards to its operational policies and procedures. At present, no general human rights policy has been adopted and precludes a general complaint in the matter.⁷³ Nevertheless, some aspects of human rights have been incorporated as Operational Directive on Indigenous People,⁷⁴ Operational Directive on

⁶⁶ World Bank Articles of Agreement, art VII, ss 2, 3; IMF Articles of Agreement, Article IX, ss 2, 3.

⁶⁷ IMF Articles of Agreement, art IX, s 3.

⁶⁸ Schermers & Blokker (n 21) 1006.

⁶⁹ Skogly (n 5) 32.

⁷⁰ Feeney, 'The Human Rights Implications of Zambia's privatization programme' in Addo (ed), *Human Rights Standards and the Responsibility of Transnational Corporations* (1999)

⁷¹ International Bank on Reconstruction and Development and the International Development Association, Resolution No 93-10, Resolution No IDA 93-6, 22 September, 1993, 12.

⁷² Bradlow, 'A test case for the World Bank' (1996) 11 *American University Journal of International Law and Policy*, 248.

⁷³ Skogly (n 5) 181.

⁷⁴ OD 4.20 (17 September, 1991).

Involuntary Settlements⁷⁵ and so on. Thus, certain human rights issues, particularly environmental matters have been read in by the Bank into its express and overt policies and decisions. Disputes on these matters can be resolved by adopting the established framework of dispute settlement.

To conclude, since the international financial institutions directly affect the lives of many people, they should provide a means to hold the institution accountable for their role and implementation of specific operations. Mechanisms and bodies like the Inspection Panel of the World Bank should be adopted by other institutions as well.⁷⁶ Conclusion

Conclusion

This paper looked at the interplay between human rights and international financial institutions. In the initial years, it was seen that the IFIs avoided a question of human rights and claimed that the same could not be talked about due to prohibition from interference in political matters of states. They believed human rights were a domestic issue and their job was exclusively economic. Over the years, the stand of the IFIs has changed. Though they do not yet acknowledge any positive obligation to promote human rights, they protect human rights as well as undertake projects and programmes that directly or indirectly uphold human rights. Because of the soft law nature of international human rights instruments and the agreement between the IFI and the member state, a positive legal obligation to promote human rights cannot be made out. A negative right to protect human rights and not act/omit to act such that a violation occurs is made out. Mostly, it is justified by stating that violation of human rights affects the economic conditions and policies. Even what is considered political right may be interfered with on this ground. It is important to note that the conditionalities imposed by the IFIs act as a catalyst to protect and promote human rights. Bradlow has argued that financial institutions should develop an explicit human rights policy in order to resolve the issues they face. The policymakers and the staff should be instructed on how to incorporate human rights into their operations. This would help the parties in holding the institutions accountable as well.⁷⁷ Clark⁷⁸ and Wahi⁷⁹ opined that there is a

⁷⁵ OD 4.30 (June 1990).

⁷⁶ Daniel Bradlow & Claudio Grossman, 'Limited Mandates and Intertwined Problems: A new challenge for the World Bank and the IMF' (1995) 17(3) Human Rights Quarterly 411, 433.

⁷⁷ Bradlow (n 26) 52.

⁷⁸ Dana Clark, 'The World Bank and Human Rights: The Need for Greater Accountability' (2002) Harvard Human Rights Journal 15.

⁷⁹ Namita Wahi, 'Human Rights Accountability of the IMF and the World Bank: A Critique of existing Mechanisms and Articulation of a Theory of Horizontal Accountability' (2006) 12 U C Davis Journal of International Law and Policy 12.

need for increasing the accountability of the financial institutions and that there is a need for greater remedies. Dispute resolution mechanism would help in holding IFIs accountable for violation of human rights or promotion of schemes that violate human rights. International human rights treaties are authoritative interpretation of the rights, their substantive content and the methods in which compliance may be evaluated. They serve as tools for the Bank and the Fund in their efforts to protect and promote human rights. It is concluded that international human rights treaties and the Articles of Agreements of IFIs should be read widely to include and expand human rights law.
