

Abstract

The North-South Divide and the Role of the International Financial Institutions

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Poverty amid plenty is one of the world's greatest challenges in the New Millennium. The phenomenon of globalization has increased poverty worldwide. Globalization began in the 1980s and led to faster and ever growing flows of capital, technology, information, knowledge, and trade across borders, in parallel to an extraordinary liberalization and deregulation of the markets. In the context of globalization, non-state actors such as non-governmental organizations (NGOs) and the private sector gained influence on the international plane.

In this age of globalization, however, the international financial institutions (IFIs) have yet to come up with a coherent and comprehensive concept to fight poverty. Their work would essentially benefit from basing their poverty reduction strategies on a „rule of law“ inspired system at four different levels of their activities:

1. At the country level: IFIs should design an integrating, comprehensive and developing country specific „rule of law“ concept as basis for concrete country assistance programs financed by the IFIs.
2. At the global level: Beyond the narrow country focus of IFI development assistance and of the IFI policy dialogue with aid recipient countries, research and active IFI participation in the building of an international „rule of law“ based system for finance and trade, and the global economy is needed so that development concerns form an integral part of the global system.
3. At the internal, institutional level: IFIs should strengthen their internal „rule of law“ by improving the standards applicable to their activities and introducing further internal, but independent control mechanisms to check on the IFIs' compliance with their own rules.
4. Cooperation with partners: Instead of cooperating under loose and informal arrangements, IFIs should establish a more formal „rule of law“ based framework for coordination of development activities, and renew their organization and management of multilateral development assistance, in particular with respect to the inclusion of further players in that field such as the private sector.

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1. IFI activities still focus largely on assisting members from the South by advising them, and by financing programs in these countries that import macro-economic and legal frameworks from the North. The „rule of law“ concept for comprehensive reforms in developing countries which is truly country specific and sensitive is only in its infancy. Too often, economic adjustment programs carry the signature of the „Washington Consensus“ and of Northern influence. Similarly, institutional reforms supposedly promoting „good governance“ and the „rule of law“ in the narrower sense wear Northern colors. The legal framework based on which IFIs operate would allow for a stronger emphasis of developing country specific and sensitive contents of IFI financial packages through changes in the conditions of IFI lending laid down in the loan documentation and accompanying policies. Except for political reform, IFIs could support the above proposed programs. Political reform need not necessarily be promoted by IFIs, especially in light of the fact that, up to date, it has not empirically been proven that democracy forms a necessary precondition for development. At any rate, the IFI focus on assistance for economic and social development contributes nevertheless indirectly to political development by creating an enabling environment for political reform.

2. The establishment of WTO changed dramatically the international legal framework under which development assistance is rendered. The IFIs have so far failed to analyze the change in circumstances and identify the primary problems associated with the new framework, in particular the lack of attention by the WTO regime to the problems of development assistance recipients. IFIs take, by and large, but note of the new WTO legal regime, while they experience at the same time problems in advising developing countries in terms of economic reforms (e. g. HIV/AIDS programs; subsidies for the export of commodities) as a result of WTO's lack of sensitivity for developing countries' concerns. In conjunction with the international framework for finance, there is a need to rethink the extreme liberalization and deregulation of the financial and capital markets in the face of a continued and increasing chronic indebtedness of developing countries and the recurrence of international financial crises. The lack of a truly integrated and fair global market for finance and trade from the perspective of developing countries should be pushed to the top of the agenda for international policy debates by the IFIs. The IFI charters provide ample room for this uncommon but important new role.

3. The IFIs' tremendous intervention in developing countries' economies as a result of „Washington Consensus“ based terms and other conditionalities increased the IFIs' direct, and often adverse, impact on people in developing countries. In contrast to private commercial banks, IFIs are therefore *de facto* in direct touch with the population of developing countries by virtue of their close link to program design and supervision of program implementation. IFIs are also in direct touch with the private sector which participates in the implementation of projects in conjunction with (i) the public procurement of private works and services; (ii) the IFI recommendation given in respect of the successful bid-

der for the award of a contract under IFI-financed projects; and (iii) the IFI blacklisting of bidders who engage in fraud and corruption in conjunction with the bidding. The new public-private partnerships which IFIs form with the private sector increased the contacts between IFIs and private business further. In all instances in which IFIs, despite their otherwise closer relationship with governments, are in touch with private individuals and firms, or in which these suffer from the adverse impacts of IFI activities, the standards for IFI work should be improved, including the control of compliance by IFIs with these standards by independent bodies to ensure accountability of IFIs for their actions. As another measure for strengthening the „rule of Law“ within IFIs, IFI activities should regularly be screened for their potential „ultra vires“ quality even if no immediate negative impact on third parties is attached to a particular IFI action in order to avoid a reputational risk for the IFIs' overall credibility. All above mentioned measures are perfectly compatible with the IFI charters and can, from a practical perspective, be implemented without giving up IFI immunity from the jurisdiction of national courts.

4. The increase in variety of IFI activities and the evolution of ever broader IFI mandates since the establishment of the first IFIs (Bretton Woods organizations in the mid-1940s) led to overlapping competences of IFIs and invariably conflicting advice to their clientèle in terms of development strategies. Currently, there is no well-founded formal framework for coordination of development assistance among IFIs, and of IFIs with other development assistance providers in the broadest sense, notably IFI partners from the private sector, bilateral aid agencies, and NGOs. The most extreme example for the absence of well-organized cooperation is the relationship between the IMF (International Monetary Fund) and the International Bank for Reconstruction and Development (or World Bank). Both institutions have been financing economic adjustment programs since the 1980s. They coordinate their work in this respect on the basis of informal cooperation arrangements between the heads of the institutions on rather vague terms. The heavily indebted countries (HIPC) initiative and the trust fund jointly administered by the IMF and the World Bank out of which the initiative is financed was a first change in the direction of a better organized cooperation between the two organizations. The IFI charters allow in principle for improving coordination among development assistance providers.