

NYU Conference: "Human Rights and Development: Towards Mutual Reinforcement"

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DRAFT remarks of Morton Winston, Chairman, Board of Directors (Emeritus), Amnesty International USA; Professor of Philosophy, The College of New Jersey.

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I turn my attention to Daniel Kaufman's ambitious and very important study of the linkages between human rights, governance, and development outcomes. One of the important features of this study is that it should help put to rest the notion that it is not possible to measure and properly quantify human rights conditions and associate them in robust causal relationships with economic and other variables. This particular study is more methodologically sophisticated than some other studies of the relationship between development indicators, such as DFI, and the enjoyment of human rights, because it takes seriously the problem of disentangling the issue of the direction of causality.

It is not surprising to me that Kaufman's data reveal a very high correlation between civil liberties/good governance and key development outcomes across countries. This was also the finding of William Meyer, in his *Human Rights and International Political Economy in Third World Nations: Multinational Corporations, Foreign Aid, and Repression*. (Westport CN, Praeger, 1998). Meyer developed a quantitative model in which direct foreign investment (DFI), which is used as a measure of MNC involvement in developing countries, is related to indices such as GNP per capita, the Physical Quality of Life Index (PQLI) of the Overseas Development Council, and rankings of different countries in terms of the level of enjoyment of civil and political rights according to US-based human rights organization Freedom House. His model is further elaborated by the inclusion of additional economic variables such as US development aid and total foreign debt, and such social factors as the illiteracy rate, the infant mortality rate and life expectancy. He then employed his model to test a series of hypotheses as to whether DFI was positively or negatively correlated with levels of human rights enjoyment in 52 developing countries in the year 1985. Meyer found that greater DFI has a strong positive correlation with higher levels of enjoyment of civil and political rights and economic, social and cultural rights. He also found that GNP per capita, US economic aid, and foreign debt stand in a positive relation to civil and political rights in the third world nations that he studied. However, Meyer used aggregate data that did not suffice to reveal the direction of causality, something that I pointed out in my review of his book for *Human Rights Quarterly*.

Mr. Kaufman does not make this same mistake and is well aware of the problem and has indeed found a solution to it. He writes:

Untangling the observed high correlation between incomes and governance is important in order to ascertain whether there is an

automatic “virtuous circle” where higher incomes are automatically translated into improved governance, or if such positive feedback mechanism is absent then a concerted and continuous policy intervention effort to improve governance is needed. Consequently, we need a good understanding of the effects of governance on incomes as well as of any feedback mechanisms from incomes to governance that might exist— simply observing a strong correlation between income growth and governance does not suffice.

It is also NOT surprising to me, BUT NO DOUBT IS to many others who read his paper, is the finding of an absence of (or even possibly negative) feedback from per capita income to governance. This significant finding does have major implications for development policy. As he writes,

First, a strategy of waiting for improvements to come automatically as countries become richer is unlikely to succeed. Second, in the absence of positive feedback from per capita income to governance, we are unlikely to observe virtuous circles when better governance improves incomes that *in turn* will lead to further automatic improvements in governance. Together, these two implications point to the fundamental importance of positive and sustained interventions to improve governance and civil liberties in countries where it is lacking. Indeed, the fact that good governance is not a “luxury good”, to which a country automatically graduates when it becomes wealthier, means in practical terms that leaders, policymakers, and civil society need to work hard and continuously at improving these civil rights and governance within their countries.

This is something that some people have been saying for a long time; e.g. Jack Donnelly, but it is very nice to find there is empirical evidence to support the argument that good governance does not somehow magically arise from economic development. The invisible hand of the market must be guided by the visible hand of the rule of law in order for investment-driven development policies to succeed in creating a larger economic pie to be enjoyed by all. Without the rule of law, good governance, and the rooting out of corruption, economic investment alone cannot and has not delivered the social goods.

Thus, in countries with an environment that is “captured” or unduly influenced by the vested interests of the powerful few, the focus of efforts to combat corruption and improve governance needs to shift from a narrow emphasis on passing laws and rules, and on procedures within the public administration, to a much broader agenda of greater political accountability, transparency, and freedom of the press. In contrast to the absence of positive effects from income to governance, we found a *large*

*direct causal effect* from better governance to improved development outcomes.

Mr. Kaufman is quite correct that until recently, the topic of corruption has not been high on the agenda of human rights organizations, nor has it been included in most human rights treaties and covenants. I would, however, draw his attention again to the newly adopted UN Norms on Business (that I mentioned earlier), this includes Article 11, which says,

11. Transnational corporations and other business enterprises shall not offer, promise, give, accept, condone, knowingly benefit from, or demand a bribe or other improper advantage, nor shall they be solicited or expected to give a bribe or other improper advantage to any Government, public official, candidate for elective post, any member of the armed forces or security forces, or any other individual or organization.

The Commentary on the Norms elaborates on this by noting that, “transnational corporations shall enhance the transparency of their activities in regard to payments made to Governments and public officials, openly fight against bribery, extortion, and other forms of corruption, and cooperate with State authorities responsible for combating corruption.”

So now there is at least one UN Human Rights document that specifically establishes a norm regarding corruption and links it explicitly to other human rights norms. I would also mention in this context, private NGO initiatives such as the International Right to Know Campaign, and the Publish What You Pay Campaign led by an NGO Coalition and George Soros’ Open Society Institute. Mr. Soros has teamed up with a coalition of over 30 NGOs to insist that oil, gas and mining companies must publish net taxes, fees, royalties and other payments as a condition for being listed on international stock exchanges and financial markets. The coalition includes Amnesty International, CAFOD, Christian Aid, Friends of the Earth, Global Witness, Oxfam, Save the Children and Transparency International. But, relying on companies to voluntarily disclose information voluntarily has so far failed because they fear being undermined by less scrupulous competitors. The campaign calls for mandatory disclosure backed by legislation so that citizens in developing countries are able to call their governments to account over management of resource revenue.

It would be very useful if the World Bank Group, particularly the IFC, were to adopt a policy that required all of the companies receiving loans to adhere to the Publish What You Pay guidelines and enforce compliance with them through their loan covenants. I understand that the World Bank already has a register of “black-listed” companies that have engaged in fraud, bribery or corrupt practices. The shaming effect of being listed on the WB registry no doubt has a powerful deterrent effect. But the effect would be greatly increased were the IFC to build Publish what You Pay into its own loan covenants. It might also consider requiring that companies receiving loans or other assistance from the IFC adopt and adhere to the UN Norms for Businesses. At least one bank that is already a member of the Equator Principles group, has recently announced that it has decided to voluntarily adopt the UN Norms as well. This is Barclays Bank.

I would also suggest it would be useful for the WB group to study carefully the results of the Government Accountability Project's analysis of "whistle-blower" protection policies at Multilateral Development Banks, which rated and compared the major MDBs on a set of 24 criteria for whistle-blower (bell-ringer) protection. I gather that the WB did rather well as compared to some other MDBs, but there was room for improvement. I heard a talk about this from one of the authors of the Study, Tom Devine, last Friday in Washington, in which he made the point that whistle-blower protective policies are a very effective and very inexpensive way of exposing corruption. Again, it would be most useful for the WB group to examine the feasibility of building in these sorts of anti-corruption measures into their loan covenants.

But to return to Kaufman's study, the preliminary conclusions he reaches certainly do deserve further study and confirmation, particularly additional of further country-specific case studies that will provide nuance and detail to the causal linkages that his work has revealed. It seems to me that his data confirm the view of the 1993 Vienna World Congress on Human Rights Declaration and Programme of Action which held that in Article 5 that both first generation and second generation human rights are equally important, when it said,

All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.

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This concludes remarks by Morton Winston

