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THE MAKING OF THE BANK AND THE FUND ABOVE THE LAW IN BANGLADESH

A Bill impending amendment to the International Financial Organisations Order, 1972 in Bangladesh will give blanket immunity to the World Bank (WB) and the International Monetary Fund (IMF) in Bangladesh, making their activities above the law.

The unprecedented Bill, awaiting scrutiny by the Parliamentary Standing Committee on the Ministry of Finance, has received fierce resistance from all opposition political parties in the floor and the street, media of all shades, numerous civil society groups, and NGOs. In the wake of disagreement within the Standing Committee, reflecting neither support for such move in the public nor precedence of such provision in other countries, the amended Bill has not been forwarded by the Committee for enactment in the December, 2004 session, but it is likely to be passed by the House in its next session due to the sheer majority of the parties in power.

The Cabinet in an extraordinary move approved on 4 July 2004 a draft Bill to provide blanket immunity to the Brettonwoods organisations – the World Bank and International Monetary Fund - in Bangladesh by seeking an amendment to the International Financial Organisations Order 1972.

The amendment would give immunity to the WB and the IMF from all legal procedures. This would mean that the Brettonwoods institutions could not be taken to the court of law or be held liable for its actions by individuals, communities or the government. The Bill would strengthen the influence of international financial institutions (IFIs) over domestic policy decisions, therefore compromising the democratic process. The Bill would de facto make the WB and IMF organisations which share no responsibility to answer to the people, whom these are meant to serve.

This level of immunity would set a precedent for the IFIs and could potentially encourage the IFIs, other donor agencies and multi-national corporations (MNCs) to request such immunity in future in countries all over the globe.

At a time when campaigners, including some parliamentarians worldwide are pushing for an increase in the accountability of IFIs, and efforts are being made to strengthen the democratic system the world over, particularly in developing countries to increase access to justice by the people, the Bill is a body blow to systematic labours that everyone is putting in.

THE WORLD BANK AND THE QUESTION OF IMMUNITY

For the background of the origin, issues and implications of the immunity in Bangladesh, one may consult the previous issue of *IFI-Watch Bangladesh, Vol. 1, No. 1* and which can be downloaded from:

http://www.unnayan.org/Other/IFI_Watch_Bangladesh_Vol_1%20No_1.pdf



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The Proposed Amendments

Like any other new member of the Bank and the Fund, the then government of Bangladesh enacted the *International Financial Organisations Order, 1972* to provide statutory coverage for the operation of IFIs in independent Bangladesh. The Article – VII and its Sections of the IBRD Articles of Agreement, which deals with status, immunities and privileges, was inserted word for word by the government in its *International Financial Organisations Order, 1972* resulting that the government of Bangladesh ensured in 1972 the level of immunities that the Bank-Fund require in accordance with the IBRD charter.

The Bank mounted a sever pressure on the Government of Bangladesh through a series of exchange of letters and made a conditionality for accessing credit styled “Development Support Credit.”

The Bank started pressuring two ministries, the Ministry of Law and the Ministry of Finance to provide blanket immunity or to sign an “Establishment Agreement” since August 28, 2001.

The Bank’s pressure heightened when the full bench of Supreme Court of Bangladesh, presided by the Chief Justice, maintained that the officers of the Bank have immunity but the Bank itself does not have immunity from the legal process, after a recent litigation brought against the WB by an employee claiming unfair dismissal (See *IFI – Watch Bangladesh, Vol. 1, No. 1* for a chronological account of pressure).

The **Box – 1** provides:

(a) the proposed amendments which would provide immunity to the World Bank (WB) and IMF from all legal procedures, meaning that the Bank and Fund could not be taken to the court of law or be held liable for its actions by individuals, communities or the government;

(b) the provisions of the original section in *International Financial Organisations Order, 1972*, in which the proposed amendments are to be inserted in addition to these provisions, which only provided immunity to the staff and property *not* the IFIs as an organization; and

(c) the previous provisions of the Order by which the Bank and Fund can be taken to the court, which will be overpowered by the proposed amendments.

Box – 1: Proposed Amendments and Original Provisions

A. The Amendments placed before the Parliament

The amendment Bill proposes insertion of the following in addition to the Section – 8 of the IFI Order, 1972 mentioned here as ‘original provisions’.

“The International Financial Organisations (Amendment) Act, 2004

8A. Immunity from judicial proceedings. – Notwithstanding anything contained in Article 8 of this Order, the following immunities shall be enjoyed by the Bank. –

- (a) The Bank shall enjoy immunity from every form of legal process, except in cases arising out of or in connection with the exercise of its powers to borrow money, to guarantee obligations, or to buy and sell or underwrite the sale of securities, in which cases actions may be brought against the Bank in a court of competent jurisdiction in the territory of a country in which the Bank has its principal or a branch office, or has appointed an agent for the purpose of accepting service or notice of process or has issued or guaranteed securities.
- (b) Notwithstanding the provisions of paragraph (a) of this Article, no action shall be brought against the Bank, by any agency, or by any entity or person directly or indirectly acting for or deriving claims from any agency or entity or person, and there shall be recourse to such special procedures for the settlement of controversies between the Bank and the Government or the agency or entity or person as the case may be.
- (c) Property and assets of the Bank, shall wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution, before the delivery of final judgment against the Bank.

Explanation: - For the purpose of the Article, the ‘Bank’ includes the following institutions, -

- (a) International Development Institutions;
- (b) International Bank for Reconstruction and Development; and
- (c) International Monetary Fund.

8B Waiver of Immunities. – Notwithstanding anything contained in Article 8A of this Order, the Bank at its discretion may waive any of the immunities conferred under that Article in any case or instance, in such manner and upon such conditions as it may determine to be appropriate in the best interests of the Bank.”

B. Original provisions in *The International Financial Organisations Order, 1972*

“Section 8. Immunities and Privileges of Officers and Employees

All governors, executive directors, alternates, officers and employees of the Bank

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Bank waives this immunity;
- (ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members;
- (iii) shall be granted the same treatment in respect of traveling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.”

C. Previous provisions of the Order by which the Bank can be taken to the court, which will be overpowered by the proposed amendments

“Section 3. Position of the Bank with Regard to Judicial Process

Actions may be brought against the Bank only in a court of competent jurisdiction in the territories of a member in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Bank shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.”

It may be mentioned that above section was inserted word for word by then government in its International Financial Organisations Order, 1972 from Section -3. Position of the Bank with Regard to Judicial Process, of the Article VII - Status, Immunities and Privileges, of the IBRD Articles of Agreement.

Essential Features of the Bill – none but business will have access to the court

The essence of the amendments once again mirrors the inherent bias of the IFIs. It speaks of a story of their anti-people and pro-MNC (multi-national corporations) attitude and an example of how the Bank-Fund is interested in serving their drivers – the corporations.

The Bill categorically denies access to the justice “by any agency, or by any entity or person directly or indirectly acting for” the people, but “actions may be brought against the Bank in a court of competent jurisdiction” by the corporations “in cases arising out of or in connection with the exercise of its powers to borrow money, to guarantee obligations, or to buy and sell or underwrite the sale of securities.” The salient features of the proposed three sub-sections are:

- The **IFIs** are protected from **every form of legal process** (see 8A. (a) in the Box – 1);
- The **businesses are allowed** to bring action against the IFIs in cases arising out of transactions (see 8A. (a) in the Box – 1);
- Person, agency, entity, directly or indirectly are **barred from seeking judicial proceedings and remedy** (see 8A. (b) in the Box – 1); and
- The **beneficiaries** of this legislation are: **World Bank** group [International Bank for Reconstruction and Development (IBRD) and International Development Association (IDA)]; **IMF** (International Monetary Fund); and **businesses** (e.g. lenders, guarantors, security companies) (see *Expalnation* in the Box – 1); and

- The **disenfranchised** are: **citizens** of Bangladesh, especially the poor and marginalised, and public-interest organisations (grassroots organisations, trade unions, women groups, academia, litigators, NGOs, etc.).

This level of immunity would **set a precedent** for the IFIs and could potentially encourage the IFIs, other donor agencies and multi-national corporations to request such immunity in future in countries all over the globe.

The World Bank’s Fallacious Arguments

The World Bank argues that ‘it is not possible for an institution to be subject to the laws of 184 different countries at the same time.’ The practice of immunity, it says, is necessary for the United Nations (UN) and its specialised agencies - ‘of which the World Bank is one’ - to carry out its duties.

While the Bank and the Fund enjoy the immunities granted to the UN specialised agencies, it is not - like those agencies - accountable to the UN system. Nor does it want its lending activities to be held up for scrutiny against a growing body of international legal covenants (e.g. human rights covenants).

The amendment sought by the WB and IMF in the Bangladesh statute book makes a complete departure from the Bank’s own Articles of Agreement [International Bank for Reconstruction and Development (IBRD), Articles of Agreement]. The WB is asking in Bangladesh that, “[T]he Bank shall enjoy immunity from every form of legal process” in contrary to its own Articles of Agreement, which stipulates “[A]ctions may be brought against the

Box– 2: The IFI Policies Promoting Inequalities in Bangladesh

The World Bank and the IMF have remained on driving seat in the formulation of economic policymaking since independence. The policy packages and associated credit arrangement have evolved from the Import Programme Credits (IPC) to Structural Adjustment to Poverty Reduction Strategy Papers.

The legacy of IFIs development formulations have resulted in, for example:

- Bangladesh has found it difficult to force a faster rate of poverty reduction beyond the average of 1% throughout the 1990s. Absolute numbers of poor people have continued to rise, as do the denial of their rights. Bangladesh has many poor people than the year of war of liberation.
- 49.8 % of the total population live below the poverty line, i.e., take less than 2,200 kcal a day per head.
- 19.98 % of the population suffer from hard-core poverty, i.e. take less than 1,800 kcal a day per head.
- The national income share of the bottom five per cent of the population has declined from 1.03 per cent to 0.67 per cent, while that of the top five per cent increased from 18.85 per cent to 30.66 per cent; and that of the bottom 20 per cent declined from 6.52 per cent to 2.21 per cent, while that of the top 20 per cent increased from 44.87 per cent to 55.02 per cent.
- The richest 10 % of the population control 40.72 % of the total national income while the poorest 10 % of the population had access to only 1.84 % of the national income in 2001 - 2002. The gap has widened since 1995-1996 when the richest 10 % of the population controlled 34.68 %of the national income while the poorest 10% had access to 2.24% of the income.
- Joblessness increased by 3.3 percent a year throughout the nineties and has had a crippling effect on the economy.
- 90 million do not have access to primary health care, 100 million lacks access to adequate sanitation.
- 12 million under-five children are malnourished, two million infants have low birth weights.
- 110 million are denied access to electricity.

The policies of the Bank and the Fund have systematically spawned and promoted inequality. Inequalities within the country have been widening to levels seldom before witnessed. Unemployment, landlessness, loss of assets, and deprivation are increasing in a widening share. At the same time absolute number of people living in poverty has not made any perceptible change. Such indications are not an accident, but the consequence of the way in which structures of ownership, production and distribution of the wealth have been systematically changed over the last two decades. Displacement, immiserisation and a loss of livelihood opportunities of affected communities have been the result.

Further references: For a discussion on the Bank’s structural adjustment policies, see Bhattacharya, D and Titumir, R A M (2002), *Reforms and Consequences: Stakeholders’ Perception*; for a discussion on PRSPs, see Titumir R A M (2004), *PRSPS – The Mystic and the Maze of Solutions*; for an understanding impact of the neo-liberal policies in Bangladesh, see *Bangladesh Public Policy Watch 2004*, and others at the website of the Unnayan Onneshan/The Innovators at www.unnayan.org.

Bank only in a court of competent jurisdiction in the territories of a member in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities" (Section -3. Position of the Bank with Regard to Judicial Process, of the Article VII - Status, Immunities and Privileges, of the IBRD Articles of Agreement).

The Bank in Bangladesh has argued that it wants the similar level of immunities granted to the Asian Development Bank (ADB) in Bangladesh. The World Bank and the ADB operate in Bangladesh under separate laws, taken word for word by the government from their respective Articles of Agreement.

If they were of similar institution, when Bangladesh became member of the ADB, the government could have amended the IFI Order, 1972 and inserted relevant section pertaining to the ADB, but the government did not, rather put a separate statute for the ADB.

Should the World Bank is interested not to be subject of the laws of its member countries, or interested in immunity such as the ADB enjoy, why does it go for a country of specific choice, reflecting power balance, instead of amending its own Articles of Agreement, which by extension would free it from courts all over the world?

The WB says that its only accountability is to its shareholder governments. What is not mentioned is that 5 countries hold 40 per cent of the votes and that the US as a single country holds a veto over decisions. Bangladesh, with a population of 133 million, has a voting share of just 0.3 per cent. The entire region of South Asia with nearly

one quarter of the world's population is represented by 2 out of 24 board members.

It is obvious that the rules governing the accountability of IFIs should be applied equally in whatever country they operate. Neither the major shareholders of the IFIs nor the larger democracies of the developing world would allow the World Bank and IMF to have such a legal immunity, so why the IFIs should be allowed to pressurise the Bangladesh government to do the same?

The Bank's Double Standards

The World Bank is interested to enjoy immunity from every form of legal process, but it maintained the waiver of "Sovereign Immunity" which allows lenders (including the Bank) to sue the borrowing sovereign (i.e. governments) in foreign courts and for pre-judgment and post-judgement attachments. This speaks of the bias to the lending governments (i.e. its masters). Under a pre-judgement attachment, a foreign court may order the seizure of the assets of the borrower located in its territory. The "order can be obtained without notice to the sovereign whose assets are to be seized". A post-judgement attachment enables a judgement to be enforceable. The United States and Britain are the two principal jurisdictions to which sovereign borrowers are required to submit.

It also enjoys the waiver of the fungibility of financial credit: this implies that project loan is actually a flow of goods and services procured from the G7 at uncompetitive prices (some are 100% higher than international prices)

Box – 3: Revisiting a 'Success' Story of Trade Liberalisation: The Bangladesh RMG

The increase in exports of Bangladesh readymade garments (RMG) and employment of women workers in the sector has been portrayed as a success story of trade liberalisation.

The international restructuring of the garment industry is a product of the international division of labour. The rising cost of labour in advanced industrialised countries drove their production processes to relocate to low-cost labour locations in the South. Like other labour-intensive products the ready-made garment (RMG) industry moved to East Asia in the 1960s, under an environment of active government support for export-oriented manufacturing. The systematic crisis of the prevailing system led to desperation between the search for ever-cheaper sources of labour and the rising level of import penetration in the markets of developed country. The corporatist sway over policy-making led to the adoption of the Multi-fibre Arrangement (MFA)¹ in 1974. The MFA was designed to regulate exports of textiles and clothing from the developing world in the interest of 'orderly trade' through quantitative restriction or quota (not a free trade, but a distorted one) so that developing world cannot penetrate the developed world more than the decided levels.

RMG industry were relocated at the lower end of the chain, like Bangladesh. The captive market on the one hand and the cheap labour, the engine of making profit, on the other led to the reallocation.

The rising share for women in the labour force is sometimes referred to as the '*feminisation of labour*.' Although women are entering the labour market in increasing numbers, their employment is concentrated in a relatively small number of 'female' areas and occupations which tend to attract lower rewards and wages. Guy Standing (1989) has hypothesised that the increasing globalisation of production and the pursuit of flexible forms of labour to retain or increase competitiveness, as well as changing job structures in industrial enterprises, favour the "feminisation of employment" in the dual sense of an increase in the numbers of women in the labour force and a deterioration of work conditions (labour standards, income, and employment status).

A great deal of critical feminist scholarship says that the 'comparative advantage of women's disadvantage' (Arizpe and Aranda, 1981) explains why women are preferred in labour-intensive industries like RMG. The disadvantageous cultural construction of the female labour force in terms of nature and inheritance works to the advantage of the manufacturers. They say that the "nimble fingers" (Elson and Pearson, 1981) of young women workers and their capacity for hard work facilitated the recruitment of women for unskilled and semi-skilled work in labour-intensive industries at wages lower than men would accept, and in conditions that unions would not permit.

These women workers transfer their submission of patriarchal authority from family patriarch to the capitalist patriarch (Safa, 1990; Salaff, 1981).

Global accumulation, as the driving force of the world-system, not only hinges on class and regional difference

Source: Titumir, R A M (2003), "Spinning the Chain, Lost in the Queue International Restructuring and Bangladesh Women Garment Workers, Dhaka, 2003

and even if cheaper local resources are available. In other words, the borrowing nation must accept high cost of goods and services and it must discriminate against its firms and service providers even if they are cheaper.¹

The World Bank acknowledges that transparency and accountability are critical dimensions of development effectiveness.² This is a standard dialogue that the Bank likes to say every now and then, yet despite the Banks' recognition of the importance of transparency the bank deliberately:

- rejected G-7's calls for the release of draft versions of the Bank's core business plan for borrowing countries although the public is being asked to participate in that document's preparation.
- refused to require the disclosure of Bank-generated key structural adjustment lending documents, let alone drafts.
- denied the release of any of the key documents produced during project implementation, effectively shutting out communities although they are increasingly involved in project implementation.

The Bank in its work singles out the critical importance of an "effective legal and judicial system." It states that: "Without the protection of human and property rights, and a comprehensive framework of laws, no equitable development is possible. A government must ensure that it has an effective system of property, contract, labour, bankruptcy, commercial codes, personal rights laws and other elements of a comprehensive legal system that is effectively, impartially and cleanly administered by a well-functioning, impartial and honest judicial and legal system."³ But it wants to remain immune from its activities which affect lives of millions.

Far Reaching Implications on Sovereignty of State, Citizenship, and Rights to Development

The blanket immunity, if the Parliament enacts such provisions, will have a far reaching consequences on the sovereignty of state, citizenship, rights to development, and the whole legal regime of Bangladesh.

The sovereignty⁴ that a nation state asserts is a cornerstone of democratic system is infringed upon by

granting blanket immunity to the Bank. Article- 7 of the Constitution of Bangladesh states that all powers in the Republic belong to the people. It also adds that all powers of the people will be exercised by the authority of the Constitution. As the state's sovereignty originates from the people's sovereignty, if the sovereign (i.e. the people) are barred from exercise of their power, the sovereignty of state is thus circumscribed.

The said amendment provides a significant blow to the citizenship. The Constitution, a contract between the State and its citizens, is ignored and the provision of immunity is not in conformity with

the Constitution. The Constitution, the solemn expression of the people and the supreme law of the republic [Article 7(2) of the Constitution of Bangladesh], clearly states that if any law is inconsistent with the Constitution, the inconsistent one will be void. Immunity debars a citizen from the right to access to court and right to protection of law (Article 31 of the Constitution of Bangladesh). The Article states: "To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any

Box- 4: An Epitaph for Adamjee

The Adamjee Jute Mill was closed down on the 1st of July 2002, on the alleged accusation of being a loss-making venture. It made at least 26000 workers redundant; thousands of children were thrown out of school, lifecycle of thousands of families were destroyed. The closing of mill originates from the Bank's diktat of privatisation.

We know the names of the super stars, the prizes, the quizzes and the whole carnival that has accompanied the Cup. But we have forgotten the names of the girl who broke down and fainted learning that her school was losing down. She's no star; she is just a school girl. She has been held guilty for the loss sustained by Adamjee Jute Mills. She has been punished along with her family. That girl, like many like her, will have to pay for official inefficiency, corruption and lack of planning. This is also called 'good governance' and 'economic reform.' "Adamjee closure will be good for the economy." A friend said on the phone. "We are forced to pay for the loss." He is a millionaire and pays less tax than I do.

The government and its sponsors, the donors, have said it all. The State-owned enterprise was losing money, more money than it was possible to sustain. It was always losing money. Yet those connected with Adamjee have almost all become rich.

There is something strangely perverse about the general estimate that the last general election campaign cost was Taka 300 crores to 500 crores apart from the administrative cost of running the elections failing to generate industrial projects from concerns and closing them down.

- "But this is the price you have to pay for democracy?"
- "A democracy which can't give enough to the people to eat?"
- "You don't want elections?"
- "What about food for the hungry and schools for children?"
- "Soon, soon. We shall have it all. It's by closing Adamjee that we can..."

Source: Afsan Chowdhury, An Epitaph For Adamjee: How Come The Rich Always Decide What Happens To The Poor?

<http://www.drishtinat.org/activists/Afsan/adamjee.html>

¹ Garba, A.G (2000) "The Economics of the Relations Between Official Lenders and Governments of SSA Countries", presented at the millennium conference of the Nigerian Economic Society, Abuja, Nigeria. 11-12 September.

² Transparency and accountability are part of the rating criteria the Bank employs to determine overall lending allocations to borrowers.

⁴ Arguably in this phase of globalisation (imperialism) the sovereignty has already been encroached upon. This being one of the main reasons by which the IFIs have succeeded in conceding the government to provide blanket immunity to it. Imperialism has led to a global economy. The WTO along with the IMF and the World Bank have emerged as a significant global political power wielded by international capital directly over sovereign nation-states, including even the imperialist states. Adhering to conditionalities of the Bank-Fund is a sign of erosion of the sovereignty.

person shall be taken except in accordance with law." Thus the case of blanket immunity is situated fundamentally opposite to the directions of the Constitution.

The immunity given to a particular section should be in conformity with the Constitution. Even if immunity is given to any particular sector, there must have a separate legal procedure where the people of Bangladesh will have a legal redress and remedy. For example, the Constitution

economic process and resources, while it would strengthen Bank's dominance on domestic policy decisions which conclusively affect economic, social and cultural rights of the people in Bangladesh, although total aid (credit by World Bank, IMF, ADB etc. and other assistance received from bilateral and multilateral sources) as a percentage of GDP has decline to around 2 (two) per cent.⁵ The World Bank's share is a meagre 0.68 per cent of GDP (Figure – 1).

Box- 5: Accounting for Privatization in Bangladesh: Testing World Bank Claims¹

A soap and cosmetics enterprise, anonymised as PC, was founded in 1959 by private West Pakistani owners. PC was nationalized after independence in 1971 coming under strict scrutiny at various government levels. PC's productivity from 1979-1988 was good compared to similar enterprises in Bangladesh (BBS 1993). Up to 1988-89, PC increased sales and never incurred a loss.

From 1982 -1988, 78% of value added (an average of 139m. TK pa) was paid by the government. The workers received 22% (an average of 40m. TK). PC was a profitable concern under the state with many of the benefits flowing to government. In 1988, the government nominated PC for partial privatization at the behest of donor agencies including the World Bank.

The result was a dramatic decline in performance. By 1993 sales had declined to 247 m. TK producing a loss of TK. 60.36 m. Over the five years of partial privatisation PC accumulated a loss of TK. 173 m. Government receipts decreased and there were marked decreases in production.

Capacity utilisation dropped from 53% in 1988-89 to 14% in 1992-93: In 1988, the total workforce was 1261, by 1991, it was 1100. PC was fully privatised in August 1993. The government sold their shares (51%) to a single family. The 1993-94 annual reports were not published until 1995.

Three cases have been filed against PC to date:

- By the Securities Exchange Commission (SEC) for not holding AGMs.
- By banks for non-repayment of a loan;
- By the Commissioner of Customs and Excise for not paying duty and taxes amounting to US\$26,000.

Budgets and associated controls changed substantially after full privatization. Financial information became a preserve of the inner sanctums of the family controls over employees became coercive. The private owners established personalised and centralized controls through imposed arbitrary, physical budgets over a lowly paid but economically dependant labour force.

There was no evidence of any benefits of privatisation trickling down to labour: wages declined and an ill paid group of casual workers (often paid around one US \$ per eight hour shift) emerged.

The above facts sharply contradict World Bank (1995) predictions that privatization would improve the fiscal situation of Bangladesh, and improve the efficiency, productivity, costs and services of SOEs.

Source: Accounting for Privatization in Bangladesh: Testing World Bank claims: Shahzad Uddin and Trevor Hopper.

provides that disciplinary forces shall be otherwise treated i.e. violation of fundamental rights caused to the members of disciplinary force cannot be enforced under the Constitutional remedy. But the members of the disciplinary forces have their rights to be defended in their own legal jurisdiction within their statutes. But the World Bank does not fall into that category. The World Bank has recently established Inspection panels to redress their policy failings, but that does not have the power to prosecute and provide sentences.

The World Bank work in the field of development and its policy-based lending has enormous implications for the citizenry. If development is conceived as a right to development and is acknowledged, the process of development cannot be immune. An infringement of such rights can only trigger fascism.

The immunity would detract the process of people's participation in development decision-making, as people are faced with no remedial process at hand. It would have a devastating impact as the involvement of IFIs such as the Bank often move the locus of decision making further away from affected communities, making policies less-transparent, non-participatory and less-accountable to traditional democratic processes.

Thus the whole move will lead to further erosion of national sovereignty and democratic control over local

While the Bank concedes their policies have impact on human rights, the granting of immunity will further their refusal to hold it accountable to human rights standards.

It is well known that the activities of the World Bank and IMF, through their lending policies infringes on the ability to implement internally cohesive macroeconomic policies for developing countries since they are to adhere to the basic rules of the international economic system. There is lack of policy autonomy as a result of *tying the hands of weak countries*. There are therefore two main sources of the challenge to economic development that underdeveloped countries are contending with; one is to identify the needs of their society and motivate the society towards providing these needs in a sustainable development process; second is to absorb the increasing pressure from international lenders to adopt certain prescribed policies, which are in conflict with the needs of their society. In order to be able to establish a process for attaining economic development, underdeveloped countries need to extricate themselves from the vestiges of external creditors so as to be able to initiate and implement far reaching macroeconomic policies that are suitable for their circumstances and developmental needs.

⁵ Bangladesh Public Policy Watch 2004, Dhaka: Unnayan Onneshan/The Innovators: www.unnayan.org.

But the quest of such policy autonomy would be further squeezed through this blanket immunity.

The resultant immunity is a reflection of a *transboundary entente* which has been successfully engineered by a core group of players who share a commitment to a specific 'way of doing business.' Apart from their close personal contacts, these players have many characteristics in common: educational background (often in American or British universities), lifestyle and vocational habits – socialisation into a professional culture that shares analytical predilections, a vocabulary of policy discourse, an understanding of what constitutes authoritative knowledge, and a sense of the 'rules of the game' guiding policy processes, since there has been a convergence of running of the economy through policies indoctrinated in neo-liberalism. The convergence of politics and economics of the elites has reduced the economic policy making to 'managerially' (a faith in the expertise of the professionalized 'new public manager' to achieve optimal policy outcomes), and 'budgets' (a faith that the optimal allocation of public resources through official budgetary mechanisms constitutes the government's main tool for addressing social issues). This transnational policy elite exercises its considerable power through its hegemonic control of the budgetary process. Their source is the international aid industry, which sustains the global accumulation on behalf of their paymasters – corporations and their titular government (Gould and Ojanen, 2003).

A defining characteristic of the new policy elite is its effort to alienate political processes, due to its conscious framework of ensuring that masses never united in solidarity in nativistic reactions to the hegemonic national and global relations or create their republic. Generally, the omnipresence of such fear in consciousness also led donors to commonly avoid engagement. This fear is the *root cause* for the immunity.

The Democratic Deficit

WB and IMF policies and programmes have a huge impact on the lives of people around the world and therefore must be held accountable to public scrutiny. If the WB and IMF

are committed to fair, well-informed and genuine participation with project affected communities, then those communities must have access to legal redress when things go wrong. The IFIs should not be able to make political decisions unchecked by government or democratic procedures. Removing any form of legal redress has implications for the sovereignty of Bangladesh government and its people, as well as future implications for the way in which IFI's and donor institutions operate in developing countries.

Reasserting the Parliamentary Sovereignty

The activities of the Bank in Bangladesh and other IFIs have remained devoid of scrutiny by the Parliament. A people-centred legislative power should question and debate technical aspects and political implications of the operations of the IFIs.

In stead of providing blanket immunity, a people-centred parliament would amend the International Financial Organisations Order, 1972. The general objectives of the Bill may include defending national sovereignty in the design and implementation of economic and development policies; strengthening Parliament and civil society in decision-making processes on IFI programmes and

A people-centred parliament would embark upon:

- formulation of a new legislation providing the parliament with the binding oversight powers including holding the Bangladesh representatives at the IFIs accountable to such committees;
- enactment of legislation to ensure all information relating to projects is made public in a timely manner, and
- Creating mechanisms to facilitate the participation of the people, especially affected communities, and civil society in the design of IFIs' country strategies, programmes and projects.
- Establishment of a mechanism ensuring that affected person(s) receive remedy.

The *IFI-Watch-Bangladesh* is a periodic publication of the **Bangladesh Working Group on IFIs and Trade Organisations**.

Chair: **Khushi Kabir**, *Nijera Kori*; Member – Secretary: **Jakir Hossain**, *Unnayan Onneshan/The Innovators*.

The issue was written by **Rashed Al Mahnud Titumir**.

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The **Nijera Kori** is a continuous and diverse movement focusing on social mobilisation and democratic management structure, targeting the most marginalised groups through the development of autonomous landless organisations with an emphasis on gender equity.



The **Unnayan Onneshan/ The Innovators**, an independent not-for-profit registered trust, aims to contribute to innovation in development through research, advocacy, solidarity and action. The alternative public policy watchdog was established in 2003 by a group of university faculties and development professionals across Bangladesh to contribute to the search for solutions to endemic poverty, injustice, gender inequality and environmental degradation at the local, national and global levels. The philosophy and models of the centre for research and action focus on pluralistic, participatory and sustainable development and seek to challenge the narrow theoretical and policy approaches derived from unitary models of development.

LIST OF PUBLICATIONS

POLICY ANALYSIS WING	
	<p>IFI Watch-Bangladesh, a regular periodical published on behalf of <i>Bangladesh Working Group on International Financial and Trade Organisations</i>, contains fact-sheets, opinion pieces and summaries of research reports that scrutinise and monitor the activities of the World Bank, the IMF, the WTO, the ADB, with special focus on their roles in Bangladesh.</p>
	<p>Bangladesh Public Policy Watch, annual in nature, provides an <i>update</i> on the state of economy and society. The aim of the <i>Policy Watch</i> is to examine development intervention strategies by exposing its underlying paradigms and the impacts on the people, and to explore alternative approaches to public policy questions.</p>
	<p>Primary Education Policy Watch (PEPW), review policies, plans and programmes in order to provide perspectives of the citizenry. The PEPW Report 2003, <i>Encountering Exclusion</i>, focused on fair share and equal access to primary education. The theme of the PEPW in current year is <i>gender equality in primary education</i>. Associated publications include public policy audits, which examine different government and donor interventions in education, with a view to advancing people's priorities and promoting alternatives with reality check.</p>
	<p>Policy (in) coherence in European Union Support to Developing Countries gauges the impact of EU policies on the people and economies of Bangladesh and focuses to what extent the EC's development themselves form a coherent approach, examining EU policies and their impact on the poor.</p>
	<p>MDG and PRSP Watch, our professional staff and external fellows have extensively written and presented papers on PRSPs at home and abroad.</p>
ACTION FOR CHANGE WING	
	<p>Listening to the People Living in Poverty: Oral Testimony of Dhaka Slum-Dwellers captures experiences and perceptions of urban slum-dwellers in Dhaka city to understand: (a) processes and factors leading to the situation; (b) perception on and experiences of transactional relationship between citizens and state; and (c) conditions viewed by them as necessary to move out of the situation.</p>
-	<p>Ten thematic perspective building tool kits written in open learning modular format will soon be made available.</p>
<p style="text-align: center;"><i>For other reports including the abovementioned ones visit our website at www.unnayan.org since most of these are downloadable.</i></p>	