New Development

The World Bank's Draft Comprehensive Development Framework and the Micro-Paradigm of Law and Development

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INTRODUCTION

In January 1999, World Bank President James D. Wolfensohn circulated a proposal for a “Comprehensive Development Framework” (CDF) to World Bank personnel.¹ Building upon Wolfensohn’s previous policy statements,² as well as consultative meetings held worldwide


with various international development actors, the CDF calls for a new “holistic approach to development.”

It seeks a better balance in policymaking by highlighting the interdependence of all elements of development—social, structural, human, governance, environmental, economic, and financial. It emphasizes partnerships among governments, donors, civil society, the private sector, and other development actors. Perhaps most important, [it puts] the country . . . in the lead, both “owning” and directing the development agenda, with the Bank and other partners each defining their support for their respective plans.

This New Development examines the CDF and its implications for international development. Specifically, using microdevelopment theory, including micro-law and development theory, it analyzes the CDF and compares it to the Bank’s previous approaches to development. On its face, the CDF appears to give the poorest of the poor more of a voice in formulating their countries’ development policies. Examination of the implementation of the CDF in several pilot countries, however, reveals that it is most often being used as a tool to improve relationships between those countries’ governments and international development donors; the voices of those countries’ citizens in poverty, as well as other elements of civil society, are largely being ignored. According to micro-law and development theory, unless countries pay attention to civil society, especially the poorest of the poor, development policy is doomed to fail. To that end, this New Development encourages civil society, and especially non-governmental organizations that represent the poor, to use the CDF as a means of getting to the table and assuming their appropriate place as full participants in the formulation of development policy.


5. Id.; see also Development Plan, BANKER, Oct. 1, 1999, at 30 (quoting head of World Bank’s CDF Secretariat that major premises behind CDF include need to take “long-term and holistic view of development issues,” need to secure “ownership” of development schemes by countries concerned, and need to include NGOs in the process in order to secure an internal and external “partnership” on development and to “get results on the ground”).
I. THE WORLD BANK’S DRAFT COMPREHENSIVE DEVELOPMENT FRAMEWORK

A. The Bank’s Pre-CDF Philosophy

The World Bank\textsuperscript{6} was created in the wake of the Great Depression and post-World War II worldwide economic crisis.\textsuperscript{7} Its initial role was to provide loans for long-term projects furthering reconstruction and economic development.\textsuperscript{8} During the 1960s and 1970s, the Bank expanded its role to encourage “growth with equity” by investing in broader anti-poverty human development projects, including education, agriculture, health and nutrition, and rural development.\textsuperscript{9}

As a result of the debt crisis in the 1980s, however, the Bank’s focus once again turned to macroeconomic, structural adjustment lending.\textsuperscript{10} The Bank began the policy of “conditionality,” requiring country recipients of structural loans to undergo financial reforms “regarding such areas as inflation, public deficits, liberalization of foreign trade and investment, exchange rates, and land and tax reforms.”\textsuperscript{11} The terms of “conditionality”—also known as the “Washington Consensus,” as the structural reforms were designed and mandated in concert with the Washington-based International Monetary Fund (IMF)\textsuperscript{12}—largely failed: only one in three countries subject to these conditions was able to meet them.\textsuperscript{13} In the process, the Bank became the subject of worldwide

\textsuperscript{6} The Bank actually consists of several institutions: the International Bank for Reconstruction and Development (IBRD), the International Development Association (IDA), the International Finance Corporation (IFC), the International Center for Settlement of Investment Disputes (ICSID), and the Multilateral Investment Guarantee Agency (MIGA). See Sandra Blanco & Enrique Carrasco, The Functions of the IMF and World Bank, 9 TRANSNAT'L L. & CONTEMP. PROBS. 67, 77–78 (1999).

\textsuperscript{7} See id. at 68–70.


\textsuperscript{10} See Blanco & Carrasco, supra note 6, at 81; Carreau, supra note 8, at 1999–2000.


\textsuperscript{12} See Tony Hawkins, Bespoke Approach Beats One-Size-Fits-All Policies: Consensus, FIN. TIMES (London), Sept. 24, 1999, at 29; see also Jeswald W. Salacuse, From Developing Countries to Emerging Markets: A Changing Role for Law in the Third World, 33 INT'L L. 875 n.39 (2000) (noting term “Washington Consensus,” coined by a U.S. economist in 1989, consists of ten broad reforms: (1) fiscal discipline; (2) reordering public spending priorities; (3) tax reform; (4) financial liberalization; (5) competitive stable exchange rates; (6) trade liberalization; (7) reduction of barriers to foreign investment; (8) privatization of state enterprises; (9) deregulation; and (10) property rights reform).

\textsuperscript{13} See Hawkins, supra note 12, at 29.
criticism, particularly for "pay[ing] too little heed to the 'little man'" and to the human side of development, and for not coordinating its efforts with other international development actors.

In the 1990s, therefore, the Bank refocused its efforts on both macroeconomic and human development. This refocus culminated in 1999 with the CDF proposal, which advocates that the Bank and its country-clients pay more attention to the structural, social, and human side of development, and that development actors increase their cooperation in their efforts to eliminate poverty. The CDF sets forth the Bank's current development ideology, subject to tweaking after initial pilot programs, consultations, and worldwide input.

B. The CDF

The core of the CDF is a matrix showing the interaction among the structural, social, and human elements of development and the actors involved with development. The vertical columns of the matrix encompass the four human aspects of development, as the Bank sees them:

- structural—good and clean government; an effective legal and justice system; a well-organized and supervised financial system; and a social safety net and social programs;
- human—education; health; and population issues;

14. See Blanco & Carrasco, supra note 6, at 81 (noting criticism from many quarters that Bank is "top-down, unresponsive institution that is out of touch with grassroots development realities in member countries"); Enrique R. Carrasco, The Debt Crisis and the Lost Decade of Development, 9 TRANSNAT'L L. & CONTEMP. PROBS. 119, 124–26 (1999); Carrasco & Kose, supra note 11, at 31–34; Nicole Wendt, 50th Anniversary of the World Bank and the IMF Prompts Criticisms, 9 TRANSNAT'L L. & CONTEMP. PROBS. 149, 149 (1999).


19. See id.; Chote, supra note 17, at 18.

20. See CDF Proposal, supra note 1, app.1; Chote, supra note 17, at 18. While the CDF does not specifically mention gender, the Bank considers gender issues implicit in the entire framework and urges governments to consider gender in each of these columns. See World Bank Group, Comprehensive Development Framework Questions and Answers pts. B.1. B.5 (visited Apr. 19, 2000) <http://www.worldbank.org/cdf/cdf-faq.htm> [hereinafter CDF Q&A].
physical—water and sewerage; energy; roads, transportation and telecommunications; and sustainable development, environmental, and cultural preservation; and

sector strategies—rural; urban; private sector; country-specific.

Along the left side of the matrix are four horizontal rows specifying the actors involved in development:21

government—national; provincial and state; and city and municipal;

multilateral and bilateral organizations—e.g., United Nations organizations; regional economic blocs such as the European Union; regional development banks such as the African Development Bank;

civil society—e.g., religious groups; trade unions; local and international non-governmental organizations; and groups of indigenous peoples; and

private sector—foreign and national business.

Using the matrix, development actors can coordinate their efforts, using the following four principles.22 First, individual countries, rather than the Bank, should take the lead in setting their own development goals and strategies as well as the timing such strategies take.23 Individual countries must take ownership of development policies and programs, with other actors assisting through the coordination of the host country.24

23. See CDF Proposal, supra note 1, at 22–23 (“[T]here is no way that the World Bank should be seen as assuming the role of the coordinator of all programs in the matrix... The existence of the matrix is not a clandestine attempt on the part of the Bank to dominate the international development arena, or the donor dialogue in a given country.”); Ramgopal Agarwala, A Commentary on the CDF (visited Apr. 19, 2000) <www.dse.de/ef/wbeu/agarwala.htm> (discussing individual country’s responsibility to implement the CDF); Development Plan, supra note 5; Romanian Gateway Project, supra note 22 (same).
Second, development should be holistic, focusing on social problems as well as economic ones. In terms of social development, the Bank emphasizes the varied categories of the CDF matrix, stating that “[g]overnment should aspire to have programs under each of the 14 headings along the top of the matrix and these will be entered into the grid.” Thus, a development policy that addressed urban education to the exclusion of rural health would not be considered ideal.

Third, all development actors should be involved in formulating and implementing development policy. As national governments set their development agenda, they should use the CDF matrix to include other actors in the planning of programs and projects. The CDF is thus a “summary management tool,” a “compass,” for countries to use. One country’s CDF matrix will differ from another country’s, because each country should use the CDF to address that country’s unique development needs. The CDF should promote transparency, information sharing, and overall coordination among the various actors by providing a place where all actors can “see quickly what is [and what is not] going on in a country from the point of view of structural and social development.” The CDF thus focuses on the important process of formulating development policies, as well as the identification and coordination of the actors who will implement them.

Finally, development should be a “participatory process” with development policies taking a long-term focus. As far as possible “within the political climate prevailing in each country,” development

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25. CDF Proposal, supra note 1, at 4–7; Romanian Gateway Project, supra note 22.
27. Id. at 21–28; Romanian Gateway Project, supra note 22.
28. See CDF Proposal, supra note 1, at 22–23; see also Agarwala, supra note 23 (discussing role of donor community in implementing the CDF); Habito, supra note 24, at 3 (discussing cooperation among development actors); Development Plan, supra note 5, at 30 (describing CDF as a “a master blueprint for co-ordinating development efforts” among government ministries, NGOs, private sector bodies, U.N. agencies, regional development banks, and other aid organizations). Wolfensohn recognizes, however, that “the pace of coordination and of inclusion, of openness and accountability, will vary by country and by stage of political development.” CDF Proposal, supra note 1, at 23.
29. CDF Proposal, supra note 1, at 23. As Wolfenson states, “the foremost objective of the matrix is to give all the players, but most especially national governments and parliamentary bodies, a framework of information which can ensure openness, a basis for coordination of effort, and for judgment of the effectiveness of programs and strategies.”
31. See id. pt. B.6; Agarwala, supra note 23 (discussing importance of flexibility and country-specific strategy in CDF); Hawkins, supra note 12, at 29 (stating that CDF recognizes that “development policies are interdependent,” meaning that “what works well in one country may fail in another”).
32. CDF Proposal, supra note 1, at 27–28; see also Chote, supra note 17, at 18 (stating the CDF “describes what various players are doing in a number of policy areas, thereby preventing duplication and conflict”).
33. See Hawkins, supra note 12, at 29.
34. CDF Proposal, supra note 1, at 30.
35. Id.
C. Implementing the CDF

The CDF is being implemented directly in self-selected pilot countries: Bolivia, Côte d'Ivoire, the Dominican Republic, Eritrea, Ethiopia, Ghana, Jordan, the Kyrgyz Republic, Morocco, Romania, Uganda, Vietnam and the West Bank and Gaza. During the eighteen-month pilot program, which ends in September 2000, the countries are to formulate a CDF matrix and generate "broad consultation and consensus-building" with other development actors in the country. Some non-pilot countries are also using CDF principles to their benefit; for instance, the Bank says that the Zambian government is using the CDF to begin defining national development priorities. Based on the pilot programs, as well as information elicited at international conferences and an online discussion forum, the CDF will be revised before widespread implementation.

II. LAW AND DEVELOPMENT THEORIES

The concept of "development" is difficult to define. It is both "a set of goals and... a process by which those goals might be attained." Development theorists generally have focused upon both the goals and the process though macro- and micro-level theory.

36. Id. at 5, 9–10, 30–31; see also Development Plan, supra note 5, at 30; Romanian Gateway Project, supra note 22.
42. Salacuse, supra note 12, at 876.
43. Some development scholars also argue that there is an intermediate level between the macro- and micro-level. See James Mayfield, Rural District Empowerment and Networking Strategy (visited Apr. 19, 2000) <http://www.choice.humanitarian.org/20points/RDE.html>. Law and development scholars, however, have not yet examined
development (L&D) theorists borrow from these two approaches, and L&D lawyers critique development policy from the macro- and micro-levels. Macro-L&D theorists, however, have generally ignored micro-L&D theory. This Part provides a brief background to both macro- and micro-L&D theory, and concludes that L&D scholars and practitioners must pay more attention to micro-L&D theory in their analyses.

A. Macro-L&D Theory

L&D theory began in the 1960s as an outgrowth of the “modernization” theory of development. Modernization theory assumed that the developing world was “backwards,” and concluded that as developing countries created “economic, political, and social institutions similar to those in the West,” economic development would inevitably result. Early L&D theorists, applying modernization theory, “attempted to assist developing countries in establishing Western-style legal institutions.” They ignored, however, the roles that ethnicity and culture play in development. This fault, among other things, resulted in an “open crisis” in L&D in the mid-1970s. Many of the movement’s founders began pursuing other academic and professional goals, research money for L&D projects dried up, and the movement, some thought, was all but dead.

Despite the L&D “crisis,” lawyers continued to have a dramatic influence on the developing world, drafting foreign laws and constitutions, and providing legal advice on cross-border and

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45. Tamanaha, supra note 44, at 471; see also Snyder, supra note 44, at 726–27.


47. See Chua, supra note 44, at 12; Tamanaha, supra note 44, at 473; Trubek & Galanter, supra note 44, at 1080–82 (noting ethnocentric character of law and development models).

48. Chua, supra note 44, at 12 (referring to Trubek & Galanter, supra note 44).

international commercial transactions. Practitioners and theorists continued to publish L&D literature. Recent efforts to improve upon L&D models, for instance, focus on the potential problems of ethno-economic inequities. For the most part, however, the L&D script still reads as a macro-level account, and ignores the vast literature in microdevelopment and micro-L&D theory.

B. Micro-L&D Theory

Even before the L&D crisis in the mid- to late-1970s, modernization theory, upon which initial macro-L&D theorists relied, was criticized and falling into disfavor. Many recognized that macro-level efforts were not "trickling down" to benefit the poorest of the world's poor, and focused on articulating a micro-level theory of development. Empirically, microdevelopment theory assumes that poverty results from "lack [of] access to resources essential to the satisfaction of basic human needs," and that the lack of access is "a product of lack of power in social relations."

Based upon these premises, microdevelopment theory makes two normative assumptions. First, development should be "an ongoing process of helping the poor to become empowered [themselves] in order that they might confront conditions of impoverishment and exclusion, gain access to essential resources and act collectively in other ways to articulate, advance and protect other vitally shared interests, as they perceive them." In other words, to eradicate poverty and

50. See Chua, supra note 44, at 13-19; Salacuse, supra note 12, at 886-90; Tamanaha, supra note 44, at 474.
51. See Chua, supra note 44, at 14-17, 19-21, 33-63 (describing practical L&D literature and proposing new theoretical L&D model); Salacuse, supra note 12.
52. See generally Chua, supra note 44 (proposing new L&D model that accounts for ethnic conflict).
53. See, e.g., Chua, supra note 44; Salacuse, supra note 12. Neither Chua's nor Salacuse's articles describe themselves as having a macro-level focus; their analyses of development are characteristic of a macro-level analysis, however, as their focus remains at the national and regional levels.
54. See infra Part II(B).
55. See Snyder, supra note 44, at 727-28; Tamanaha, supra note 44, at 472.
59. Id. at 65-66.
underdevelopment, development must focus primarily on the poor and underdeveloped.60 Second, microdevelopment assumes that development will be most successful if "disadvantaged people organize themselves to overcome the obstacles to their social, cultural, and economic well-being."61 The poor "participate fully not only in identifying common problems, setting priorities, and designing strategies and programs, but also in carrying out project activities and distributing the benefits."62 Outsiders "respond to the initiatives of local organizations and collaborate with them in a supportive role" rather than imposing their own initiatives on them.63

In practice, microdevelopment is highly multidisciplinary and includes "a mix of economic, social, and cultural objectives,"64 including education and literacy, health services, income improvement and poverty alleviation, environmental protection, community cooperation and participation, and social and cultural cohesiveness.65 Success in microdevelopment is not measured merely through economic growth:

Results... can be intangible—improved skills in communication, leadership, or management; a stronger sense of self; the establishment of rights to civil liberties; or the increased ability to leverage services from the state. Results can also be tangible—increases in production of agricultural or manufactured goods; a rise in family incomes; a building to be used for organizational activities; or a road or water system.66

Additionally, microdevelopment focuses not only on persons in developing nations but on the poorest of the poor in developed nations. As microdevelopment advocates have argued, "[t]here is no country in the world whose inhabitants can confidently say, 'we have no further need for development', meaning: 'there is nothing further that can be done to enhance the life of individual citizens in our state'. The mere

60. See Chambers, supra note 57, at 79 (stating that development must "start[] with the situation and priorities of the rural poor"). One of the most impassioned supporters of the idea that development must focus on the poorest of the poor is Muhammad Yunus, founder of the Grameen Bank in Bangladesh, which makes microloans to impoverished women. See Grameen Bank, Grameen: Banking for the Poor (visited Apr. 19, 2000) <http://www.grameen-info.org>. For a basic background to Yunus' philosophy and the Grameen Bank, see THE GRAMEEN READER (David S. Gibbons ed., 2d ed. 1994).

61. Kleymeyer, supra note 57, at 38.
62. Id.; see also Stiles, supra note 57, at 3–4.
63. Kleymeyer, supra note 57, at 38; see also Stiles, supra note 57, at 3–4.
64. Kleymeyer, supra note 57, at 38.
assertion is grotesque.”67

After the L&D “crisis,” some L&D scholars investigated microdevelopment theory, and in the early 1980s began generating a micro-L&D theory.68 In contrast to the original L&D theory’s sole focus on macrodevelopment of markets and democracy,69 micro-L&D theory focuses on developing law and legal resources for the poorest of the poor:

The task of developing law entails recourse to many different kinds of law—ranging from various kinds of international law [including human rights law] to the law of torts and contracts to endogenous law derived from customs and widely shared values. The task of developing legal resources entails many activities, undertaken at both national and international levels, ranging from grassroots’ projects aimed at reciprocal education to provision of legal advocacy for groups and the development of new kinds of legal expertise and professional skills. The process of using law and legal resources to empower and help victim groups may entail recourse to the media and schools, to international forums and diverse governmental bodies as well as the courts.

A focus on law and legal resources is important. Unless victim groups choose to fight back by acting outside the law they must inevitably reckon with it.70

Several organizations sprung up that focused on micro-L&D, including the International Center for Law in Development, founded in 1982, the International Development Law Institute, founded in 1983, and the International Third World Legal Studies Association, founded in 1980.71 Academic journals, beginning with Third World Legal Studies

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69. See, e.g., Paul & Dias, supra note 56 (comparing macro-state-managed development with small-scale people-centered development).
70. Paul & Dias, Developing Law, supra note 58, at 93.
in 1982, arose to provide forums for “alternative” L&D scholarship.72

Micro-L&D practice is as broad based and diverse as microdevelopment practice in general. Micro-L&D practitioners operate in a number of substantive legal areas, such as human rights,73 land reform,74 environmental and natural resources,75 legal literacy,76 legal services,77 gender law,78 labor law,79 consumer law,80 and housing and tenant law.81 Micro-L&D lawyers litigate,82 but they also educate community groups, advocate causes through alternative dispute resolution schemes, create opportunities for the poor to participate in the political process, lobby, represent small-scale groups or nongovernmental organizations (NGOs) as clients, and help draft new laws.83 They are not just lawyers, but agents for social change and full participants in a broader, multidisciplinary effort to improve the lot of the world’s poor.

Microdevelopment is not a panacea: “Many problems cannot be effectively addressed by grassroots techniques alone.”84 Additionally, micro-L&D efforts are often stymied because of skepticism about law


77. See, e.g., Committee on Legal Services to the Poor in the Developing Countries, Legal Aid and World Poverty: A Survey of Asia, Africa, and Latin America (1974); Law, Human Rights and Legal Services: A Neglected Field of Development Cooperation (1988) [hereinafter Legal Services: A Neglected Field].


80. See, e.g., id. at 191.

81. See, e.g., id. at 191-92.

82. See id. at 190-92.


84. Kleymeyer, supra note 57, at 39.
and lawyers among the poorest of the poor. Micro-theory is, however, “a constructive, hopeful path for the disadvantaged.” It is also a more direct way to fulfill the human rights duty of States to make individuals the focus of development.

Macro-L&D theorists have not given much attention to micro-L&D theory. For instance, two recent articles, one by Professor Amy Chua and another by Professor Jeswald Salacuse, discuss macro-level L&D paradigms. These articles fail, however, to discuss the vast micro-L&D theory literature, much less critique their paradigms against micro-theory. These articles make the same basic (some would also say inaccurate) assumption made by traditional macrodevelopment theories: that the benefits of development will “trickle down” to the poorest of the poor. They assume that development policy is best made from policymakers at the top, which ignores microdevelopment theorists’ criticism that development can only occur with planning and participation—indeed ownership of the process—by the poorest of the poor themselves. They also assume that development is only necessary in relatively poor countries, ignoring the fact that some citizens even in more developed countries experience social and economic underdevelopment, as well as barriers to political participation, on the same level as persons in the developing world.

It is true that important development work occurs—at the macro-level. For example, from a legal standpoint, drafting of constitutions, import/export laws, and labor codes, among others, must occur at a country level. Even microdevelopment theorists acknowledge that their approach is not a cure-all.

Microdevelopment’s focus on the poorest of the poor is important, however, and a revival in micro-L&D theory is necessary, for the benefits of development still fail to reach the poorest of the poor. When policymakers critique development efforts using a macro-theory alone, potentially constructive micro-level criticism slips through the analytical cracks. Analyzing development policy from the micro-level ensures that the poorest of the poor will not only be remembered, but

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85. See, e.g., Michael Fremerey, Legal Education in Rural Development: An Outsider’s View, in LEGAL SERVICES: A NEGLECTED FIELD, supra note 77, at 89.
86. Kleymeyer, supra note 57, at 39.
88. See Chua, supra note 44; Salacuse, supra note 12.
89. See Stiles, supra note 57, at 3.
90. See supra note 56 and accompanying text.
92. See Kleymeyer, supra note 57, at 38; Stiles, supra note 57, at 3–4.
93. See supra note 67 and accompanying text; see also Rodolfo Mata & Lawrence Friedman, Welcome to the Third World: Reflections on the Anniversary of the Boston College Third World Law Journal, 15 B.C. THIRD WORLD L.J. 77 (1995) (exploring various definitions of the developing world, including many involving persons living in the developed world).
94. See Kleymeyer, supra note 57, at 39.
will actively be involved in the process of their own development. Professor Galtung's statement two decades ago remains true today: "the current [development] processes are so overwhelmingly of the macro-oriented . . . type[,] . . . a strong emphasis on the [micro] type is needed," both in theory and in practice.95

III. THE CDF AND MICRODEVELOPMENT THEORY

Having advanced the need for a resurgence in the use of microdevelopment theory, including micro-L&D theory, this Part uses micro-theory to analyze the CDF,96 focusing on the framework itself and upon its implementation in the pilot countries. Without doubt, the Bank has "great[] influence on the developing world,"97 and it is using that influence to campaign for the CDF as a means to alleviate world poverty. The key question is whether the CDF will, from a micro-perspective, actually accomplish that goal and, more specifically, whether the CDF improves upon past Bank policies such as "growth with equity" and "conditionality." From a micro-approach, one sees many positive points to the CDF, but also some potentially serious problems.

A. Microdevelopment Critique of the CDF

Before beginning a facial critique of the CDF itself, it is helpful to recall that some of the Bank's strongest critics continue today to fault its focus on large-scale projects, its disregard for the poorest of the poor, and its unwillingness to cooperate with the NGOs that typically represent the interests of the poor.98 Some critics suggest that the


96. This is not to say that a macro-level critique could not also be fruitful. For instance, Chua would almost certainly give the CDF a failing grade for ignoring the importance of ethnicity in development. The CDF matrix does not address ethnic aspects of development. See CDF Proposal, supra note 1, app.1. None of the Bank's CDF explanatory information contains any derivative of the word ethnicity. See, e.g., CDF Q&A, supra note 20; Progress Report, supra note 39. According to Chua, ignoring ethnicity in development "recapitulates a basic and potentially fatal error" that, "if left unaddressed, [would] threaten to undermine the long-term success" of the CDF. Chua, supra note 44, at 19-20, 21. This article focuses primarily on a micro-level analysis because, as Galtung emphasized, micro-development has traditionally been ignored in favor of macro-level approaches. See Galtung, supra note 68, at 123.

97. Chua, supra note 44, at 17.

98. See Saladin Al-Jurf, Participatory Development and NGOs: A Look at the World Bank, 9 TRANSNAT'L L. & CONTEMP. PROBS. 175, 177-81 (1999); Allan H. Meltzer & Adam Lerrick, Editorial, What the World Bank Ought to Be Doing, WASH. POST, Apr. 11, 2000,
Bank’s “conditionality” programs in the 1980s actually deepened poverty and strained income distribution, although the evidence is not conclusive. Criticism of the Bank recently took center stage in Washington, D.C., as protestors unsuccessfully attempted to stop the annual meetings of the Bank and the IMF. The activists were successful, however, in sharing their anti-Bank message and in getting the attention of delegates and the support of the leaders of developing countries.

In that light, one must remember the core microdevelopment question: “Will this policy improve the situation of the poorest of the poor?” and a key micro-L&D inquiry: “How can resources be mobilized to improve the law and legal resources for the poorest of the poor?”

1. Ownership and Participation

Under the CDF, individual countries will oversee development planning themselves rather than have that planning imposed on them, as it was through conditionality. The “Washington Consensus” was a prescription given to each developing country without regard for individual country maladies. The CDF, on the other hand, puts individual nations, specifically their governments, in the driver’s seat to ensure that development policies and programs reflect the consensus of that nation’s people, creating a sense of “ownership” in the country. The CDF also reflects the interdependent nature of development, recognizing that the same prescription does not work in each case. The concept of ownership, planning, and implementation of development policies by the people striving for development, rather than by outside groups, is one of the fundamental principles of microdevelopment. Thus, the CDF appears to borrow this traditionally micro-level method.

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at A23; Owen, supra note 15, at 108.
99. See Carrasco & Kose, supra note 11, at 31–32.
103. See supra Part II(B).
104. See supra note 11 and accompanying text.
105. See supra notes 11–13 and accompanying text.
106. See CDF Proposal, supra note 1, at 24 (“[T]he governmental structure of a country must be in charge of the process of development strategy and implementation.”); Development Plan, supra note 5, at 30 (emphasizing country ownership in development process).
108. See Kleymeyer, supra note 57, at 38.
The CDF’s policy of country-level planning and ownership has the potential to allow “the poor to become empowered” by giving them an opportunity “to articulate, advance and protect” their interests before policymakers. The CDF also represents a greater shift in Bank policy towards cooperation with all development actors: not just governments, but civil society and the private sector. On its face, the CDF sets a place for all of these actors at the development planning table by stating that development planning should be a “participatory process,” in which “integration of effort” is central. In the past, the Bank has worked exclusively with governments, sometimes disregarding and duplicating the efforts of other development actors. Specifically, NGOs, the development actor that most often represents the voice of marginalized groups in society, were brushed aside. The CDF has the potential to promote increased coordination, and to facilitate development planning with the views of civil society, including the poorest of the poor, squarely in mind.

Several aspects of the CDF, however, raise the question of whether that potential will actually be realized. For example, the Bank’s CDF proposal acknowledges that in “some countries,” development policy “will be set by a process of public debate and consensus building led by the government with all sections of society. [However, in] other countries, the establishment of goals will continue to be set more centrally.” Thus, the Bank recognizes that public participation is not always integral to the CDF, suggesting that ownership really means country or government ownership, rather than citizen ownership. Additionally, it is telling that the CDF is a program that the Bank’s president created mostly himself, rather than a true cooperative effort with other development actors from the start, making it appear that it is merely another “Washington Consensus” camouflaged in clever rhetoric. How can true country ownership and participation come

109. Id. at 65–66; see also Caroline Hartnell, Bank Pilot in Bolivia Fails to Create ‘Clear, Structured Space’ for CSOs (visited Apr. 19, 2000) <http://www.brettonwoodsproject.org/brief/cdf.html> (quoting ActionAid Chief Executive Salil Shetty as saying the CDF “is potentially useful if it can create greater national ownership of country action plans and a coordinated donor response—these are things [NGOs have] been arguing for ages”).

110. See Al-Jurf, supra note 98, at 178–79 (describing Bank’s previous efforts to cooperate with NGOs—one level of civil society).

111. See CDF Proposal, supra note 1, at 25–27; Development Plan, supra note 5, at 30 (describing CDF as “master blueprint for co-ordinating development efforts” among development actors); Hawkins, supra note 12, at 29 (stating CDF is tool for “consensus” and “participation”).


113. See, e.g., Owen, supra note 15, at 108 (“[The] Bank must also seek to create new and closer relations with NGOs in both donor and receiving countries. Not only do NGO views deserve attention, NGOs can sometimes work with the Bank in shaping and executing needed programs, as they are now doing in some developing countries.”).

114. See CDF Proposal, supra note 1, at 9–10 (emphasis added).

115. See, e.g., Robert Chote, Wolf at the Door, FIN. TIMES (London), Apr. 14, 1999, at 18 (stating Bank directors support CDF in principle but not practice); Development Plan,
from a program created entirely by outsiders?

In the final analysis, it is fundamentally unacceptable from a microdevelopment viewpoint that development planning under the CDF occurs at a national government level pursuant to a framework prescribed by the Bank. Microdevelopment theory assumes that development policy and planning should originate with the poorest of the poor themselves, not their governments. The people themselves know "the obstacles to their social, cultural, and economic well-being" better than anyone else; thus, it should be the poor themselves who "identify[] problems, set[] priorities, ... design[] strategies and programs, [and] carry[] out project activities." From a microdevelopment standpoint, government-planned and implemented development is as much an imposition on the poor as Washington-imposed conditionality programs were on their governments. Ironically, then, through the CDF "the Bank is insensitive to the very groups it seeks to champion"—those in poverty. In fact, the CDF makes people-centered ownership less likely by putting the onus for development policy and implementation on the national government, at a macro-level. From the microdevelopment position, the level of ownership the CDF delivers is not deep enough; it must go down to the level of the people.

This criticism is squarely before the Bank. During its worldwide online CDF discussion, commentators expressed concern that, because the CDF is in the hands of the national government, the poorest of the poor may not have a full voice in formulating development strategies. Additionally, the obstacles to true country ownership and participation stemming from implementation of a Bank-created program is the greatest criticism the CDF has received from the press, NGOs, and even Bank staff. The Bank acknowledges the concern in a CDF progress

supra note 5 (discussing controversial nature of CDF among Bank's staff); C.T. Kurien, Addressing the Universal Malady of Underdevelopment, INDEPENDENT (Bangladesh), Dec. 22, 1999, available at <http://independent-bangladesh.com/news/dec/22/221299op.htm> (opining that CDF is merely another Washington Consensus conditionality plan); Chakravarthi Raghavan, Dead-On-Arrival Draft Declaration Text? (visited Apr. 19, 2000) <www.twnside.org.sg/title/deadoncn.htm> (stating that CDF "pursue[s] the same policies" as the Washington Consensus "under the guise of a new framework of development and poverty focus"); Rowley, supra note 22, at 22 (stating that CDF could be attempt by Bank to dictate the entire global agenda for aid and development); Smallhout, supra note 22, at 44 (reporting that some call CDF "Wolfenstein's little checklist"); Angela Wood & Matthew Lockwood, The "Perestroika of Aid"? New Perspectives on Conditionality (visited Apr. 19, 2000) <http://www.brettonwoodsproject.org/poa/poa.html> (questioning whether CDF is "paradigm changing" or "simply repackaging").

116. See Rowley, supra note 22, at 22.
117. Kleymeyer, supra note 57, at 38.
118. Id.
120. See CDF Q&A, supra note 20, pt. C.3; Progress Report, supra note 39, para. 40.
121. See supra note 115 and accompanying text.
report, but it remains to be seen how the CDF may be amended to account for ownership and participation problems between the poor and their governments.

2. Level of Focus

The CDF improves upon the Bank’s previous and almost exclusive focus on large-scale projects. It specifically puts rural-sector and high-density urban-sector strategies on the development policy map, reminding development actors of the necessity of projects aimed at those who traditionally live in the most poverty-stricken areas. This improvement is also seen in the CDF’s acknowledgment that the appropriate level of government at which development policy should be implemented is sometimes local government. Specifically, from a micro-L&D viewpoint, the recognition in the CDF that governance and justice reform must occur not only on a national scale but also on a rural level hopefully means that small-scale reforms, for which micro-L&D organizations often push, will find a place in development planning. Whether the CDF’s increased focus on rural and urban sectors translates into increased development policy and planning for those areas, however, remains to be seen. The CDF has the potential to focus on smaller-scale projects, but it is all too easy to see that if CDF development planning occurs at a national government level, and the national government is not interested in pursuing small-scale programs involving local governments, development policy will still occur mostly on the macro-scale.

3. Scope of Development

Implicit in the CDF is a realization that development is a much broader concept than economic development alone. The CDF’s holistic focus on all aspects of development (economic, social, and cultural) recognizes a fundamental microdevelopment premise—that development is multifaceted. The CDF also maintains a sense of flexibility allowing countries to address individual country needs. From an L&D perspective, the CDF acknowledges the importance of judicial and governmental reform, including legal reform, to
development. On its face, the CDF thus appears to be an improvement upon the exclusively macroeconomic focus of conditionality, the Bank’s most recent development philosophy, and harkens back to the “growth with equity” philosophy of the 1960s and 1970s.

Some commentators, however, think that the CDF’s holistic focus, if mandated for all developing countries, may actually overstretch countries’ resources as they attempt to simultaneously attain goals in every aspect of development. Similarly troubling is the CDF’s inherently prescriptive nature: by suggesting to developing countries that the elements in the CDF matrix are the important aspects to development, and focusing on these elements in discussions with the Bank, the CDF appears less flexible and more like a Bank-imposed edict on developing countries. To the extent that the CDF, in practice, encourages the flexibility necessary for a country to focus on the particular aspects of development that its own citizens, especially the poorest, determine are most important, it will be a success from the microdevelopment perspective. To the extent that the CDF perpetuates prescriptive policies, as the Bank’s conditionality program did, it will be a failure.

4. Participants in the CDF

The CDF implies that only developing countries need the framework; for instance, all CDF pilot countries are developing countries. A tenet of microdevelopment theory, however, is that development must occur wherever extreme poverty exists—which, unfortunately, is in every country. This exclusive focus on developing countries is somewhat absurd from a microdevelopment perspective. Although the Bank generally does not lend to more developed countries, it should acknowledge that all countries could use the CDF as a tool for

129. See CDF Proposal, supra note 1, at 10–11.
130. See supra note 9 and accompanying text.
131. See Rowley, supra note 22, at 22; Smalhout, supra note 22, at 44 (reporting that one NGO believes CDF reforms far exceed many developing countries’ institutional capacity).
132. See Smalhout, supra note 22, 44.
133. See, e.g., Development Plan, supra note 5, at 30 (“The CDF is now seen as a more direct attempt to impose a global agenda by doing it at a country level.”); Hartnell, supra note 109 (reporting Nancy Alexander’s statement in Globalization Challenge Initiative Newsletter that the CDF’s predetermined categories mean inflexibility rather than flexibility; also that even Bank staff is unsure whether CDF is diagnostic tool to assess development needs or strategic tool to prescribe change); Kurien, supra note 115 (commenting that CDF is another Washington Consensus prescription); Anthony Rowley, Developmental Problems, BANKER, June 1, 1999, at 57 (discussing Asian Development Bank’s criticism that CDF is inflexible).
134. See supra Part II(B).
136. See supra note 67 and accompanying text.
further development.

B. Microdevelopment Critique of the CDF Pilot Programs

Limited information is currently available on implementation of the CDF in the pilot countries. A progress report is scheduled for May 2000, and a final report will presumably be issued sometime after the pilot programs finish in September 2000. Some information is available from Internet web sites launched by the governments of several pilot countries, as well as a report on the CDF pilots that the Bretton Woods Project, a Bank/IMF watchdog group, issued after direct contact with coordinators in pilot countries. This critique of the CDF’s implementation in pilot countries is therefore not only preliminary but also confined to the modest information available.

Even from this limited information, however, one common problem emerges from a microdevelopment perspective: the CDF is not being implemented in the pilot countries with the full participation of any level of civil society, much less the poorest of the poor. Hopefully, the Bank is serious when it says that the CDF will be tweaked based upon the shortcomings of the pilot programs. Unless modified to require more civil society participation, the CDF may never have a real impact on poverty.

1. Bolivia

Bolivia was the first CDF pilot chosen; in fact, the government of Bolivia created a type of CDF matrix in 1997, a copy of which was attached to the formal CDF proposal that the Bank issued in early 1999. NGOs and other elements in Bolivian civil society, however, indicate that they were marginalized in the 1997 national dialogue leading up to the first Bolivian CDF matrix. For instance, the

138. See Progress Report, supra note 39, pt. II.
140. See Bretton Woods Project, supra note 37.
141. See CDF Proposal, supra note 1, at 31.
142. See id. at 30; Hartnell, supra note 109.
143. See CDF Proposal, supra note 1, app. IV.
Bolivian government officially invited only two NGOs to the discussions, and the NGOs were not provided meaningful information or time to prepare.\textsuperscript{145} Furthermore, the entire dialogue occurred over a very short period of time, two to three weeks, giving very little time for meaningful discourse and input.\textsuperscript{146} Finally, the Bolivian government did not invite NGOs to follow-up meetings with international donors for eighteen months after the 1997 consultations, effectively barring civil society from the post-matrix dialogue and implementation.\textsuperscript{147}

Unfortunately, civil society has been further excluded from participation in Bolivia’s formal CDF pilot program. Tardy invitations to attend consultation meetings held specifically for civil society in February 1999 left participants only one week to prepare; the number and diversity of NGOs invited to participate was very limited (only NGOs headquartered in the capital of La Paz were invited, excluding most indigenous groups); and relevant materials were available almost entirely in English, not Spanish.\textsuperscript{148} Another coordination meeting in June, this time with all the development actors involved in the Bolivian CDF pilot, was held in Paris, France, to accommodate the attendance of high-level international donors. The location obviously meant that Bolivian civil society participation was limited, and even the Bolivian NGOs that could go received relevant documents late and in English, leaving them little time to effectively prepare after translation into Spanish.\textsuperscript{149}

The gap in civil society participation is also manifest in a lacuna in the CDF matrix itself. At the time the Bolivian CDF matrix was shown to Bank staff, it included a column addressing rural development issues, but the row set aside to show NGO participation was almost entirely blank.\textsuperscript{150} Apparently, despite additional drafts of the matrix further outlining Bank and other multilateral donor roles, the NGO row has yet to evolve.\textsuperscript{151}

The lack of civil society input in the national dialogue creating the CDF matrix, the dearth of civil society participation in further CDF consultations, and the failure to delineate NGO participation on the Bolivian CDF matrix leads to only one conclusion at this point: that the Bolivian CDF is being used as a tool to coordinate efforts between the Bolivian government and the international donor community. This may

\textbf{References:}

145. \textit{See Bolivian NGOs, supra note 144; Aslam, supra note 119; Hartnell, supra note 109.}
146. \textit{See Bolivian NGOs, supra note 144; Hartnell, supra note 109.}
147. \textit{See Bolivian NGOs, supra note 144; Hartnell, supra note 109.}
148. \textit{See Hartnell, supra note 109; Bretton Woods Project, supra note 37.}
149. \textit{See Bretton Woods Project, supra note 37.}
150. \textit{See CDF Proposal, supra note 1, app.4. From a micro-L&D viewpoint, it is positive that legal reforms were addressed in the first Bolivian CDF draft. See id. Information on the implementation of legal reforms addressed in the CDF, however, is not available.}
151. \textit{See Bretton Woods Project, supra note 37.}
be positive for Bolivia in some respects; from a microdevelopment perspective, however, it will not result in poverty reduction and social development because it fails to include the subjects of development—the poorest of the poor—in planning and implementation of development policy.152

2. Ghana

One of the Government of Ghana’s stated goals for its CDF pilot is “a genuine partnership with donors, civil society and the private sector.”153 In the recent past, the Ghanaian government has solicited the views of such groups on economic issues. In September 1997, the government held a “National Economic Forum” in which it consulted with “civil society, the private sector, academics and researchers, [and] the opposition” to discuss the country’s economic strategy.154 The Forum did not, however, discuss issues other than economic development, giving civil society little opportunity to contribute to the broader Ghanaian development agenda.155

The initial steps in the Ghanaian CDF pilot program indicate that Ghana is using the CDF primarily to plan development efforts with donors rather than with civil society.156 For instance, Ghana’s first progress report to the Bank’s executive directors in March 1999 discussed its “partner group” arrangement for the various development sectors on which the government was focusing (i.e., represented in the CDF matrix columns).157 Under Ghana’s plan, each group is to include a lead government agency and a multilateral agency as “focal support” leaders. The education group, for example, is led by the Ministry of Education and UNICEF.158 It is in these “partner groups” that the government intended to draft the CDF matrix and to develop a sense of ownership and partnership.159 Regarding civil society’s participation in these groups, however, the government merely indicated that “[t]hese groups are open to all partners who wish to attend—including NGOs and private sector representatives—and their outputs will be circulated to all partners.”160 From this initial progress report, it appeared that

152. See supra Part II(B).
155. See id.
156. See Bretton Woods Project, supra note 37 (stating Ghanaian “[g]overnment’s focus [is] on building government-donor partnerships”).
158. Id.
159. See id. para. 10.
160. Id.
the government was not actively soliciting input from anyone but the donor community in the CDF pilot.

In November 1999, the government issued its first CDF draft, which continues to focus on the “partner group” system, with input from civil society and the private sector permitted but not necessarily invited. Subsequently, the Bank encouraged an organization called Civisoc to help facilitate input from NGOs and other parts of civil society in the CDF pilot and other Bank programs in Ghana. Still, it is clear that input and participation from civil society is not the Ghanaian government’s prime goal in its CDF pilot.

From a micro-L&D viewpoint, the Ghanaian CDF is making some strides forward. The first issue paper submitted by the governance partner group, responsible for recommending improvements to the judiciary and legal system, does highlight, as a key development necessity, increased access to legal services “for all[,] especially the poor.” It also emphasizes the importance of including civil society in the improvement of democracy and governance, and points out efforts that have been made to improve grassroots participation in government, and in legal education. For instance, the issue paper reports that with outside funding, a legal education program is underway in one geographical region to “train[] women leaders in human rights and legal issues to assist them [to] empower women in the communities of the region.”

While the governance issue paper addresses topics that are necessary from a micro-L&D standpoint, such as increased legal services and participatory government, it is still unclear to what extent civil society was involved in formulating these goals and preparing the issue paper. Even if the goals are theoretically satisfactory, the approach is still deficient from a micro-L&D framework, because the process of formulating development policy with civil society’s participation is just as important as the policy itself. Coordination is what appears to be lacking in Ghana—even in the governance partner group.

3. The Kyrgyz Republic

As in other countries, the government of the Kyrgyz Republic is

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161. See First Draft, supra note 153.
162. See id. paras. 11–12.
163. See Bretton Woods Project, supra note 37.
165. See id. sec. 3.2.
166. See id. sec. 5.1.4.
167. See id. secs. 5.2, 5.3.
168. Id. sec. 5.3.
actively coordinating the implementation of the CDF.\textsuperscript{169} After initial meetings to which only international organizations and key donors were invited—one of which occurred in Washington, D.C.\textsuperscript{170}—the government held a two-day CDF workshop in July 1999 in the Kyrgyz capital of Bishkek, which included a broad range of stakeholders, including NGOs and other civil society groups.\textsuperscript{171} Unlike some countries, the Kyrgyz government has established a specific NGO consultative group to assist in formulating and implementing development policy.\textsuperscript{172} This is an important step toward realizing the government’s statement that “[p]articipation of all interested parties, including the civil society . . . , is essential for the development and implementation of the CDF,”\textsuperscript{173} and a step which other countries using the CDF should emulate.

The NGO group met again in December 1999,\textsuperscript{174} but it appears that its participation may be limited in scope. Of the five major development themes on which the Kyrgyz CDF focuses,\textsuperscript{175} it appears that the NGO group has only been asked to contribute to one: poverty reduction and social protection.\textsuperscript{176} The government should expand the role of the NGO group so that civil society may contribute to all the development themes; otherwise, the Republic risks undertaking development without input from the subjects of development—the Kyrgyz people themselves.

With respect to micro-L&D, very little information is available on plans the Kyrgyz CDF is making for legal and judicial reforms. During the July 1999 workshop, a specific session on “Good Governance, Legal and Judicial Reforms” was held.\textsuperscript{177} The Kyrgyz CDF web site states that among the topics to be discussed were “(1) legal protection of individuals, (2) law enforcement, (3) availability of information on laws and acts to public, and (4) judiciary reform and incentives for judges.”\textsuperscript{178} The site, however, contains no further information on what was actually discussed at the workshop and what specific reforms are being


\textsuperscript{170} See Bretton Woods Project, supra note 37.


\textsuperscript{173} CDF in Kyrgyz Republic, supra note 171.


\textsuperscript{175} CDF in Kyrgyz Republic, supra note 171 (stating five major development themes: (1) macrroeconomic stability and growth, (2) governance and legal reform, (3) private sector, (4) poverty alleviation, and (5) regional cooperation and trade).

\textsuperscript{176} See Minutes, supra note 174.


\textsuperscript{178} Id.
planned. It remains to be seen what micro-L&D steps the Kyrgyz CDF takes.

4. Romania

The Romanian Government asked to be included in the CDF pilot program. The initial consultative meetings in May through June 1999, however, were led not by the Romanian government but by the Bank itself. These consultations were broad-based and inclusive of a variety of Romanian individuals and groups, and the Bank “is especially keen to have NGOs and civil society more generally involved [since] input from NGOs has been very valuable.” Apparently, Romanian NGOs have responded positively to the CDF. One NGO representative is reported to have said, “I've worked with the Bank in Romania since 1990 and I just wanted to tell you that the CDF is the most important thing which the Bank has ever done here. This is the new Bank.” Hopefully, as the Romanian CDF program matures, it will continue to do what it has recognized is crucial: “giving voice to the poor, through consultation with civil society, [which hopefully] means that resources will go where they are most needed—and the benefits can be sustained.”

As with other pilot countries, more information is available on civil society’s participation in the Romanian CDF than on specific development issues the CDF will address. From a micro-L&D standpoint, it does appear that legal reform, especially vis-à-vis property rights and land reform, is among the issues on which the Romanian CDF will focus, hopefully with the input of civil society and to the benefit of the poor.

5. Vietnam

One of the main areas of focus for the Vietnam CDF pilot program is the coordination of all development actors, including NGOs, in order to create a more synergistic development atmosphere. As in the Kyrgyz Republic, the Vietnam CDF pilot formed a civil society working
group, as well as an NGO working group. The NGO group is focusing specifically on poverty alleviation, while the civil society group is working on broader development planning and implementation, including the drafting of an NGO law. One report, however, indicates that while there was some internationally-based NGO participation in CDF consultative meetings in June 1999, participation of local NGOs was limited, and that the “Bank wants to encourage greater public discourse.”

6. Other Pilot Countries

Although most available information on implementation of the CDF pilot program relates to the above five countries, some very limited information is available on several other pilot countries. As the Ethiopian CDF pilot started, one observer noted that the government was focusing only on coordinating efforts with international donors, “whilst consulting with national stakeholders [was] not a priority or even an objective.” Since then, Ethiopia’s CDF has apparently fizzled due to its war with Eritrea. In Côte d’Ivoire, it appears that civil society may not have been included in the formulation of the first drafts of the CDF matrix, but is being included in the follow-up consultative discussions on the CDF. This is similar to what is occurring in Uganda, where the initial CDF was drafted exclusively by the government and donors, leaving civil society out of development planning until later stages.

The situation looks better for several other countries, however. In Morocco, civil society has not only been included in the CDF matrix drafting and consultative process, but has co-organized some CDF seminars with the government. In the West Bank and Gaza, moreover, civil society (including NGOs) has been included in CDF matrix planning meetings, at which formulation of development priorities is occurring.


189. See id.

190. See Community Participation Group, supra note 187.

191. See Bretton Woods Project, supra note 37.


193. See Bretton Woods Project, supra note 37.

194. See id.

195. See id.

196. See id.

197. See id.
C. Micro-Recommendations for the CDF

Based upon this evaluation of the CDF and its implementation in the pilot countries, one major failing is evident: lack of full civil society participation. The CDF framework was created without major input from the development actors, including developing countries, that the CDF insists are so necessary to the development process.198 The Bank’s CDF proposal itself mentions that civil society participation in development planning is not expected in each country.199 Perhaps as a result, civil society participation has been sidelined in many pilot countries in favor of government coordination with the international donor community.200 In the pilot countries where civil society participation has occurred, it has generally been after the initial CDF matrix priorities were drafted201 or has been confined to limited aspects of CDF priorities.202 The problem with exclusive government coordination with donors is that donor-driven programs are donor-dominated programs, leaving civil society’s input in policy and implementation by the wayside.203 From a micro-perspective, such limited participation from “the very groups [the CDF] seeks to champion,”204 namely poverty-stricken civil society in developing countries,205 is unacceptable. While microdevelopment theory applauds the CDF’s focus on those in poverty,206 it strongly criticizes not only the lack of participation of the poor themselves in development planning under the CDF, but the imposition of this Bank-created program in the first place.207

For the CDF to truly realize its potential as a vehicle for poverty alleviation, the Bank must amend it not only to encourage, but to require, full-scale involvement of civil society in all stages of the CDF, from the initial development priority brainstorming through implementation. “There is a wide gulf between participating in the design of a poverty reduction strategy,” which microdevelopment requires, “compared with being consulted on a proposed strategy,”208 which is how the CDF currently is being implemented, at best. In some

198. See supra Part III(A)(1).
199. See id.
200. See, e.g., supra Part III(B)(1).
201. See, e.g., supra Part III(B)(6).
202. See, e.g., supra Parts III(B)(1), III(B)(3).
203. See Hartnell, supra note 109 (citing Nancy Alexander’s concern that “there is a danger that the process will be too donor-driven, with especially the larger donors such as the Bank itself dominating the agenda”).
204. Aslam, supra note 119.
205. See CDF Proposal, supra note 1, at 2, 31 (focusing CDF’s efforts on alleviating problems of those in poverty).
206. See Chambers, supra note 57, at 79 (stating that development must “start[] with the situation and priorities of the rural poor”); Paul & Dias, Developing Law, supra note 58, at 64–67 (noting focus of development should be on the poor themselves).
207. See Kleymeyer, supra note 57, at 38; Stiles, supra note 57, at 3–4.
208. Wood, supra note 192.
pilot countries, the Bank has encouraged more civil society participation.209 Publicly, at least, the Bank claims that the CDF "is aimed at engaging civil society," and that "working with civil society . . . is an essential part [of development work] for us."210 It must take that encouragement one step further after the pilot programs to insist upon civil society participation in the CDF.

To improve its focus on civil society participation, the Bank could look to the widespread public participation that surrounded the drafting of South Africa's post-apartheid constitution. The racial tension and violence that occurred after the implementation of the 1984 constitution, which did not contain a bill of rights and gave only limited franchise rights to persons of Indian and mixed-race, but not Black, ancestry,211 is well known.212 Recognizing this, a noted South African legal scholar (now a judge on that country's Constitutional Court) stated that the success of South Africa's future constitution depended heavily "on the meaning it has for the public affected by it."213 Accordingly, drafters of South Africa's current constitution elicited widespread public participation, both from individuals and civil society groups: they released working drafts of the constitution for public comment, published a regular newsletter available in print and via the Internet, established email accounts and phone lines through which individuals could make suggestions (over two million submissions were made), went to the people by holding public meetings throughout the country, and actively sought the voices of traditionally disempowered groups.214

Because of the widespread public participation, the South African constitution "represents the collective wisdom of the South African people and has been arrived at by general agreement."215 Of course, difficult policymaking decisions were made, and not every South

209. See Bretton Woods Project, supra note 37 (discussing Bank's encouragement in Ghana, Romania, Uganda, and Vietnam).
African agrees with every aspect of the new constitution. However, the inclusive drafting process of the document makes it more likely that it will stand the test of time and help heal the wounds of racial division. The Bank should encourage public participation in the CDF on the scale present in the drafting of the South African constitution.

From civil society's standpoint, the CDF should be used as a tool to compel greater participation in the development planning and implementation process. By approaching government with the CDF in hand, reminding the government that the CDF encourages (and hopefully after amendment requires) broader cooperation with civil society,216 those with the greatest stake in a country's development—its own citizens—should be able to join the development planning and implementation process. As one NGO executive said, "We should try to exploit [the CDF] to the maximum [rather than leaving it as] just a piece of paper."217

D. Postscript: May 2000 Progress Report

As this New Development went to press, the Bank issued a progress report that discusses the CDF pilot countries.218 The Report provides a summary of efforts in each CDF pilot country through March 2000, as well as the Bank's analysis of the CDF pilot program as a whole.219 Rather than suggesting specific changes to the CDF at this time, the Report merely mentions "emerging issues" that the Bank must address in the future.220

The Report strengthens the main conclusion of the micro-level analysis above: the primary shortcoming to implementation of the CDF is the failure to fully engage civil society in development planning. Summaries of ten of the thirteen pilot countries, for instance, indicate that consultation with civil society has thus far been weak or needed greater attention.221 The Report praises only three countries' efforts to include civil society in CDF planning: the Dominican Republic, Uganda, and the West Bank/Gaza.222 Microdevelopment theory posits that development can only occur with the involvement of the subjects of

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217. Hartnell, supra note 109 (quoting ActionAid Chief Executive Salil Shetty).
220. See id. at 19–22.
221. These pilot countries include Bolivia, Côte d'Ivoire, Eritrea, Ethiopia, Ghana, Jordan, the Kyrgyz Republic, Romania, Vietnam and the West Bank and Gaza. See id. at 28, 30, 34, 36, 38, 39, 41–42, 46, 49–50, and 52.
222. See id. at 31, 47, 51.
development.\textsuperscript{223} For the CDF pilot programs to be successful in eradicating poverty, consultation with all aspects of society, especially the poorest of the poor, must occur.

The Report illustrates the Bank's awareness of the lack of full-scale participation in the CDF pilots.\textsuperscript{224} How is the Bank addressing the problem? The Report suggests that the Bank might actually be scaling down its encouragement of full scale participation in some pilot countries where participation may "undermine existing democratic institutions...[that] are relatively fragile."\textsuperscript{225} Overall, however, the Report indicates that the Bank continues to emphasize civil society participation; the Report frequently mentions that the CDF development process "needs to involve" all affected stakeholders.\textsuperscript{226} The Bank should, however, use even stronger language, such as that included in a questionnaire sent to pilot countries to elicit information for the Report: "Ownership requires consultations with stakeholders to promote consensus..."\textsuperscript{227} Additionally, as recommended above, future codifications of the CDF should require—rather than merely encourage—participation of civil society and other relevant stakeholders, and the Bank, in its consultations with developing countries, should follow up with pilot country governments on their efforts to engage civil society in development policymaking and implementation.\textsuperscript{228}

Finally, the Report also illuminates a specific problem with participation in the CDF: lack of wide-scale participation is often the fault of the pilot countries' governments.\textsuperscript{229} The opposite is also obviously true: full participation occurs in countries whose governments actively encourage it.\textsuperscript{230} To the extent that this New Development recommends that the Bank require widescale public participation in CDF planning efforts, it also urges CDF pilot countries' governments to initiate broader engagement with civil society and the private sector.\textsuperscript{231} Likewise, it reiterates that civil society groups should approach their governments with the CDF in hand, using it as a tool to get to the development planning table.\textsuperscript{232}

IV. CONCLUSION

The World Bank's Comprehensive Development Framework is, in many ways, an important advance in the international development

\textsuperscript{223} See supra Part II(B).
\textsuperscript{224} See, e.g., Mid-Term Progress Report, supra note 218, at iv--v.
\textsuperscript{225} Id. at iv; see also id. at vii, 21.
\textsuperscript{226} See id. at 5; see also id. at vii, 10, 21.
\textsuperscript{227} Id. at 59 (emphasis added).
\textsuperscript{228} See supra Part III(C).
\textsuperscript{229} See Mid-Term Progress Report, supra note 218, at 24, 50.
\textsuperscript{230} See id. at 47.
\textsuperscript{231} See supra Part III(C).
\textsuperscript{232} See id.
field. Bank policies have long been based on macrodevelopment theories, which ignore microdevelopment. The microdevelopment approach, including micro-L&D theory, is essential for the economic, social, and cultural development of the poorest of the poor. How much of an advance the CDF makes depends in part on how well it withstands analysis from a microdevelopment, and micro-L&D, perspective.

The micro-L&D critique in this New Development shows that, on its face, the CDF has potential but is not without its faults; most unfortunately, it only encourages rather than requires civil society input. As implemented in pilot programs, this particular fault has come to a head, as pilot country governments have used the CDF as an instrument to improve relations with international donors rather than with the poorest of the poor in their own countries. Unless these concerns are addressed, the CDF promises to be merely another Washington-imposed program rather than a real tool to improve the lot of the "three billion people still living under $2 a day." 233

The implications of the CDF's failure for the Bank are serious. The Bank has received great criticism for past development policies, including its conditionality programs of recent times. 234 In the eyes of many, especially in the developing world, the Bank is unsuccessful and lacks legitimacy. 235 Should the CDF fail, the Bank's legitimacy will no doubt be increasingly questioned, and its credibility in the eyes of the development world tarnished. Even worse, however, are the implications for the poorest of the poor throughout the world. At a minimum, the CDF's failure will delay, in the words of Bank President James Wolfensohn, "the betterment of mankind and [] improvement in the lives of many in poverty." 236 At the very worst, the CDF could actually worsen the lot of the poor, as many argue the Bank's conditionality programs did. 237

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233. CDF Proposal, supra note 1, at 2.
234. See supra Part I(A).
235. See, e.g., Anderson, supra note 102, at A31; Kurien, supra note 115 (stating view of academic in developing world).
236. CDF Proposal, supra note 1, at 1.
237. See supra note 99 and accompanying text.