

Environmental Governance
and
International Environmental Justice:

The Case of the
International Finance Corporation

Timothy G. Ehresman
Earth Systems Governance
2009 Conference
Amsterdam
Access and Allocation Stream

Abstract

This paper aims to identify generally whether the growing discourse on international environmental justice can speak to the global environmental governance effects of foreign direct investment. The literature on international environmental justice (“IEJ”) is progressing to the point where consistent principles may be distilled from work which arises in a number of academic disciplines. It is thus now possible to propose a study of whether and what notions of IEJ may find a home in the theory and practice of cross-border private investment.

Foreign direct investment (“FDI”) continues to be an important source of capital in the developing world, and it is this geographical space within which this paper will seek to employ empirical analysis to render a determination as to the prospects for FDI that takes account of environmental justice concerns. The global poor are inordinately impacted by environmental externalities as their reliance on the natural environment is much more proximate and immediate. And FDI entities wield significant influence within their environs, suggesting the need for special care in considering their overall environmental impacts on the vulnerable. This study focuses then on the impacts of FDI on the global poor, contending that this is the most urgent and compelling dimension of seeking to understand the environmental footprint of FDI.

To provide a basis for such a consideration, this paper centers on the programs and practices of the World Bank Group’s International Finance Corporation (“IFC”). This is because the IFC’s express mission is to better the lot of the poor in developing countries by sponsoring FDI-centered economic growth. Thus a study of the IFC will potentially reveal what concepts and accommodations arise in the best efforts of private-sector economic activity which is fundamentally committed to a liberal vision of development.

The paper concludes that the IFC provides workable examples of a positive dimension to FDI’s impact on global environmental governance, in particular by virtue of the place of liberal conceptions of IEJ in specific IFC projects. The result is a hopeful, though not unqualified vision for the potential of FDI in the developing world.

Acknowledgement

The author would like to thank the Environmental Governance Working Group at Colorado State University for their generous support of this project.

Introduction. This paper aims to identify generally whether the growing discourse on international environmental justice can speak to the global environmental governance effects of foreign direct investment. The literature on international environmental justice (“IEJ”) is progressing to the point where consistent principles may be distilled from work which arises in a number of academic disciplines. It is thus now possible to propose a study of whether and what notions of IEJ may find a home in the theory and practice of cross-border private investment.

Foreign direct investment (“FDI”) continues to be an important source of capital in the developing world (see Annex A), and it is this geographical space within which this paper will seek to employ empirical analysis to render a determination as to the prospects for FDI that takes account of environmental justice concerns. The poorest forty percent of the world’s population earns only 5% of global income (www.globalissues.org), and progress towards the Millennium Development Goals has been incremental at best. The global poor are inordinately impacted by environmental externalities as their reliance on the natural environment is much more proximate and immediate. And FDI entities wield significant influence within their environs, suggesting the need for special care in considering their overall environmental impacts on the vulnerable. This study focuses then on the impacts of FDI on the global poor, contending that this is the most urgent and compelling dimension of seeking to understand the environmental footprint of FDI.

To provide a basis for such a consideration, this paper will center on the programs and practices of the World Bank Group’s International Finance Corporation (“IFC”). This is because the IFC’s express mission is to better the lot of the poor in developing countries by sponsoring FDI-centered economic growth. Thus a study of the IFC will potentially reveal what concepts and accommodations arise in the best efforts of private-sector economic activity which is fundamentally committed to a liberal vision of development. Second, the IFC relatedly

constitutes a ‘best-case’ scenario with respect to the possibility of social and environmental sensitivity and promotion in FDI, as discussed further below.

A Liberal Approach. While the literature on globalization, trade and investment is large, this paper will seek to evaluate FDI under the auspices of the IFC through the lens of liberal formulations of IEJ. There is no shortage of published work criticizing the local impacts of global capitalism, and contending that the poor will never be justly served short of a post-capitalist world order. The harnessing of a study such as this to speak to these concerns would be an important effort. However, this study is based on the notion that FDI and its theoretical premises should be first asked to speak for and defend themselves.

For example, FDI is a realm of economic activity and environmental impact that many liberals hold out as an example of the positive potential of liberal economic growth (e.g. Bhagwati 2004; Wolf 2004; Graham 2000; Neumayer 2001; Esty and Bradford 1997; Talukdar and Meisner 2001; Tikku 1998; see also Zarsky 2004 for the positive potential of FDI). To best assess these claims, this literature needs to be first taken at face value and considered on its own terms. If an analysis of FDI based on a liberal notion of IEJ reflects that the nature of the enterprise cannot be fairly said to leave the poor better off, then the entire notion of FDI and indeed liberal capitalism may be rightly questioned. And with respect to the IFC, if an institution so apparently committed to FDI with acceptable and even beneficial social and environmental effects cannot fulfill the vision of a liberal IEJ, then FDI outside the context of such a high level of scrutiny is unlikely to do better.

The path for the subsequent discussion is then to first identify the extent of FDI’s role in global environmental governance, second what a liberal conception of IEJ looks like and how it

operates, third where liberal IEJ fits in the literature on IEJ, and fourth whether a liberal IEJ so founded may be vindicated in FDI under the policies and practices of the IFC.

FDI as Global Governance? The lens through which this paper examines the issue of global environmental governance is that of international environmental justice. However, it is important to first consider the ways in which FDI itself is and exerts a particular form of global governance generally.

First, the realities of growing cross-border interactions and interdependence, and the expansive impact of the global economy even upon nation states, have led many scholars to conclude that changes are underway in how ‘government’ happens both domestically and at a global level. The ethos of what scholars see happening, and its representation in the term ‘global governance,’ is captured well in Rosenau’s oft-cited formulation: Global governance is “systems of rule at all levels of human activity—from the family to the international organization—in which the pursuit of goals through the exercise of control has transnational repercussions.” (1995, p. 13). Defined this broadly, FDI retains at minimum a potential fit within global governance so construed.

The question of this control or power arises next as it relates to the capacity and impact of transnational corporation (“TNC”) activity. The threshold question in this regard, I argue, is whether TNCs do or do not have agency. That is, do TNCs act out of a wide range of potential choices, some beneficial--some not, or are they inextricably embedded in a neoliberal structure and system which bears the greatest explanatory power for what TNCs do and how? Wight undergirds this dialogue by helpfully noting that one’s view on agency and structure is a matter of ontology. That is, there are two possibilities: either society begins and ends with people, or alternatively with the “circumstances within which people are formed” (2006, p. 62). As an

ontological commitment then, this study is clearly bound up in the potential of individuals within TNCs to pursue liberal values, in order to seek positive, ameliorative environmental and related social impacts at the sites of FDI. Thus I build on the hypothesis that TNCs do have agency, that because of this liberal values can make the claim of potentially enabling better lives, and that the current system must be examined to determine whether it is about more than the admittedly extant examples of imposition and domination in the investment setting.

Finally, is FDI a form of not only power but also of private authority? Cutler observes that business is governing itself more and more. While traditional liberal theory holds that only the state can authoritatively govern the lives of others and prescribe behavior—justifiably so because it is elected and thus accountable—the present global milieu admits of ways in which this hard line distinction is breaking down (2002). At a minimum, global governance scholars argue that something more than raw state-like coercive power is at work in the global sphere. Horizontally-mediated forms of power are proliferating, and are becoming accepted as legitimate by some process (e.g. Hurd 1999; Conca 2005, p. 187). Indeed, there may well be empirical merit to the supposition that the legitimation of the impact and capacity of TNCs is directly linked to and dependent upon facilitative community values and norms (e.g. Bernstein 2004, p. 19; see also Hall and Biersteker 2002, p.3). Strange suggests that this may not be so farfetched, noting that those subjected to new forms of market authority often freely acknowledge its presence and impact (1996, 13; see also Halabi 2004, p. 45). In a more positive vein, Ruggie contends that TNCs do wield private authority, but in an entirely new and hopeful global public space created by TNC actors to meet their new and emerging needs (2004, p. 503).

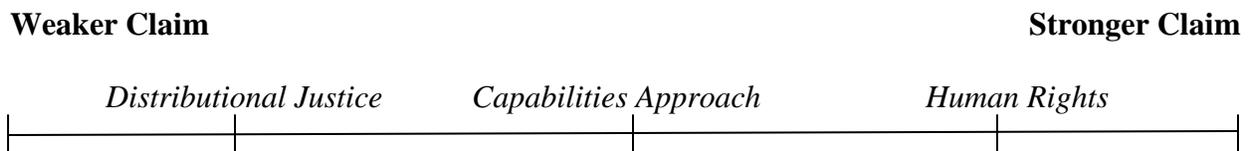
This study, then, is premised on the weight of such studies and arguments which would plainly include FDI as a significant participant and player in new and expanding forms of global governance.

Liberal Visions for IEJ. Turning then to the environmental governance lens of IEJ, I begin by identifying what I contend are three principal manifestations of the liberal justice paradigm in contemporary international politics and relations. I then place each of these paradigms in the literature on IEJ. The three paradigms are: first, the contention for an egalitarian distribution of burdens and benefits; second, the capabilities approach; and third, the human rights discourse. Following the development of each of these approaches in more detail, this study will proceed to testing whether the programs, progress and policies of the IFC satisfy one or more, or none, of these approaches to liberal IEJ.

It is useful to think of each of these approaches in terms of the strength of the claims which it provides for the poor to realize environmental justice benefits and be protected from environmental damage and injury. The placing of these three approaches on such a continuum, then, would proceed as follows:

Figure 1.

Liberal Views of Justice
Organized by Strength of Claim for the Poor



Distributional Justice Approach—Liberal Egalitarianism. The literature that issues from and contends for a liberal IEJ is often concerned that the benefits of environmental services, and the burdens of effluence and other environmental externalities of human activity, should be fairly distributed among individuals and peoples. In this view fair and just deliberative and

decisional procedures are not enough—there must also be justice in substance, in outcomes (e.g. Anand 2004; Adger et. al. 2006). The call for distributive justice is broad and multifaceted, enjoying substantial attention in both the environmental justice literature, and in the international justice literature generally (see e.g. Diefenbacher 2006; Dow et.al. 2006; Harris 2001; Lal 2002; Low and Gleeson 2001; Paavola 2003; Shrader-Frechette 2002; Shue 1996). Indeed, the literature on distributive justice presently dominates the debate on global and environmental justice (Wissenburg 2006), though it has not always been this way (Stavis 2006).

Rawls represents the focal point of contemporary liberal distributive justice theory: “fair distributions away from any substantive agreement on what we each believe as 'good'--pictures of the good life” (Schlosberg 2007, p. 13). Key is Rawls’ Difference Principle, namely that unequally distributed natural goods, such as intelligence and natural talent, must work to the betterment of the least advantaged. That is, “the social order is not to establish and secure the more attractive prospects of those better off unless doing so is to the advantage of those less fortunate” (Rawls 1971, p. 75). While Rawls was resolute in *A Theory of Justice* and his later work *The Law of Peoples* that his construct could not be extended beyond borders, Garcia argues that the connection between us and the foreign ‘other’ who is impacted by our economic decisions (i.e. the visible level of economic interdependence around our globe), works a necessary extension of the Difference Principle to the international realm (Garcia 2003, p. 126).

This approach to justice is, in my view, the weakest form of a claim for liberal justice. This is because it is heavily conceptual, and is complex to apply in practice. In the context of a specific FDI project, for example, it is not clear with respect to environmental impacts and decision-making just what the practical steps should be to honor the Difference Principle, and

who should be accorded the privilege and responsibility to generate for the larger community binding dictates from Rawls' Original Position (Rawls 1971, pp. 17ff).

Capabilities Approach. This scholarship has emerged over the past decade as a powerful adjunct to a traditional liberal construction of political and economic thought. Advanced primarily in the work of Amartya Sen and Martha Nussbaum, the capabilities approach contends that an apparently fair distribution of wealth and income, for example, may mask significant underlying disparities in the sorts of lives individual people are actually enabled to live, or constrained from living. The capabilities approach is a liberal political theory, seen principally in its focus on the individual. However, the process of ensuring justice by securing human capabilities includes, in both Sen and Nussbaum's work, an express recognition that a fulfilling human life necessarily entails a meaningful engagement with others within one's community and arena of relationships. Thus advocating only individual identity and latitude does not, in the capabilities view, fairly capture the core of what justice requires (see also Morvaridi 2008, pp. 91ff).

Both Sen (2009) and Nussbaum (2006) contend in their most recent works that the capabilities form of justice is valid as a theory and approach with respect to global justice, thus becoming relevant for purposes of this study's focus on IEJ. "Since the late twentieth century it has been obvious that an adequate treatment of international and cosmopolitan justice must address not only the traditional topics of war and peace, but also the topics of economic justice and material redistribution" (Nussbaum 2006, p. 406). Sen offers two grounds for this: first the empirical fact of the interdependence of interests among the citizens of different nations, and second, the relevance of the perspectives of other peoples (2009, p. 402). Thus the public reasoning we so easily call for within national borders must also extend beyond them.

The capabilities list, as distinct from a negative freedoms approach, is all affirmative, and focuses on outcomes—what capabilities people are actually able to exercise. The capabilities approach thus takes on a focus that is more amenable to social agility and prerogative than a more categorically determined panoply of human rights. This effect is seen in this study’s description of the capabilities approach as embodying a stronger call for reform in the IEJ literature than the human rights approach (cf. IEJ Typology below).

Both Sen and Nussbaum, by virtue of their more recent work, hold that the capabilities approach to global justice also attends well to environmental issues. In the capabilities approach, environmental justice speaks to the need for all to have capabilities to live which are founded in access to the opportunities offered by the natural environment, as well as the tools and understanding to improve one’s natural environment (Sen 2009, p. 249). Sen argues that environmental sustainability necessarily entails an assessment of the need to protect the capacity of the environment to offer life chances and opportunities for the betterment of the welfare of humans (2009, pp. 248-49).

While the capabilities approach is then more socially progressive than the human rights approach discussed next, I accord the capabilities approach the median place in the continuum of strength of claim in that while Nussbaum notes that there should be a moral and ethical obligation on the part of nation states to supply the essential capabilities and the means to exercise them to all of its peoples, claims that the state has failed in this regard have no international recognition or jurisdiction. “The idea of capability all on its own does not yet express the idea of an urgent entitlement based on justice” (Nussbaum 2006, p. 290).

Human Rights Approach. Finally, I include the human rights discourse as a liberal expression of justice because the discourse has its modern origins in the context of liberal

democracy, and because the emphasis on the individual and his or her freedoms and liberties is quintessentially a liberal concept and principle (see e.g. Bosselmann 2001; Woods 2006, p. 577).

As a threshold matter, I note that those calling for the inclusion of environmental rights in the human rights discourse do so precisely to strengthen the imperative to protect and steward the environment, because the language of rights and justice carries more force than merely contending for notions of right or wrong, and because there are existing domestic and international procedural and judicial mechanisms in place to expose human rights violations and to fast track their protection and defense (e.g. Ageyman et.al. 2003, p. 11; Anderson 1996, pp. 19-20; Douglas-Scott 1996, pp. 120ff).

The language of environmental human rights in the view of some also exposes important echelons of power and dominance present in the environmental dimension of the global political economy (e.g. Stammers 1999), suggesting a social dimension to the rights discourse. Sachs for example argues that one key to attaining environmental justice is to ensure that those in power are not the only ones who can define what ‘environmental justice’ means (Sachs 1995, p. 8).

Not all would contend for a new range of social, particularly environmental human rights. Indeed for many the way to advance the more social dimension of environmental human rights is to advance and protect existing argued basic human freedoms of expression, assembly and organization, freedom of the press and speech, and so on (e.g. Boyle 1996, p. 63). For others the best route is to formulate a new core of environmental human rights, and to enshrine such rights in legal documents—national constitutions in particular (e.g. Hayward 2005). The constitutions of over 100 states already in fact contain explicit environmental provisions (Hayward 2005, p. 22 n. 2).

Objections to an environmental human right include reference to the difficulty surrounding the notion that human rights bespeak aspirations which are universal. Woods points out that if we allow that some nation states can enshrine a human right to freedom of religion, while others do not, there is then nothing to keep nations from opting out of an environmental human right (2006, p. 588). Eckersley points to the manifest enforcement difficulties of reducing the general language of for example a right to 'clean air and water' to the specificity required to initiate legal action, identifying all those responsible for the violation of such an environmental human right, and proving causality (1996, p. 229). And perhaps the most strident opposition to the notion of an environmental human right focuses on the fact that an environmental human right is fundamentally anthropocentric (e.g. Boyle 1996, pp. 51ff; Redgwell 1996).

In any event, I have accorded the human rights approach the status of retaining the strongest basis for claims by the poor, in view of the established judicial character of international human rights laws and agreements and the more credible and compelling nature of recourse sought under such provisions and international regimes.

Having established the boundaries of the liberal approaches to justice with which this study is engaged, I move to the task of placing each approach within the literature on IEJ.

Liberalism and Environmentalism. Since the natural world is not a party to the liberal social contract, it may be seen to go begging in a narrowly liberal system of thought and practice (Wapner 1997). For some liberals the constraints of environmental protection may even be seen as barriers to individual liberty (Ibid, p. 216). However, these scholars also argue that liberalism's focus on the individual and on equal worth and dignity for all provides a strong basis for liberalism to take on an international environmental concern and to establish an international

standard for what is fair and just with respect to the global environment. (de Shalit 1995, pp. 289-90; Wapner 1997, pp. 226-27).

A Typology of IEJ. I now turn to a placement of the three approaches to liberal justice in the IEJ literature. In so doing I will employ a typology of the IEJ literature which I have found useful as a heuristic tool, and which divides the scholarship into three broad categories: Narrow IEJ, Broad IEJ, and Ecological IEJ. While there is indeed IEJ literature which crosses over each of these categorical boundaries, the overall model nonetheless serves as an aid to conceptualize not only the literature but how to understand and locate the three liberal approaches to justice. This placement proceeds as follows, discussed in detail in the subsequent sections:

Table 1: Liberal Approaches to Justice in the IEJ Literature

Category of IEJ:	Narrow International Environmental Justice		Broad International Environmental Justice	Ecological IEJ
Approach to Justice:	Distributive Justice	Human Right to the Environment	The Capabilities Approach	
What Constitutes IE Injustice:	<i>The maldistribution of environmental burdens and benefits, and decision-making authority.</i>	<i>The failure to ensure the provision of rights to safe and healthy living and working conditions for all, including safety from harmful environmental externalities, and the failure to ensure rights to local access to and control over situate natural resources and environmental services.</i>	<i>The failure to ensure that individuals and the communities in which they live are free to live the lives and make the choices they have reason to value, unencumbered by limitations, restraints, and incapacities in the natural environment. Also the failure to consider the capabilities of non-human nature.</i>	

As will become clear, the effect of this placement is to push out the boundaries of liberal environmentalism well beyond the more limited scope of the liberal distributive approach itself. This expanded form of liberalism steps away from neoliberalism, and may be fairly referred to as a more ‘social’ form of liberalism. It is my contention that the human rights and capabilities approaches in particular effectively adopt a more social conception of liberal IEJ in the direction of more positive freedoms, and a stronger call for the sorts of reform ascribed to Broad IEJ in the discussion which follows. As noted earlier however, while the human rights approach affords a

more defensible claim for the poor than the capabilities approach, in the context of the IEJ literature the latter occupies a deeper reform position and is thus among the three approaches the notional vanguard for social change in the context of IEJ.

Narrow IEJ. Distributive justice among humans and within the existing political and economic system is the chief focus of a liberal IEJ in this category. At a system level, this form of liberalism seeks environmental solutions which are largely consistent with support for democratic political structures, free markets and largely autonomous global economic relations (e.g. Beckerman 1999; Achterberg 2001; Lal 2002; Wissenburg 2006; and Morvaridi). Indeed, the neoliberal approach to justice fits entirely within this category (e.g. Bhagwati 2004; see also discussion in Chasek et.al. 2006).

As to the place for the distributive approach to liberal justice, the Narrow view of IEJ raises the focus on individual and distributive rights to a global level, and retains a commitment to seek to address both the burdens and benefits of environmental resources, externalities, and decisional access, particularly across national boundaries. Justice enters the picture directly when these burdens, benefits and access are allocated disproportionately among domestic populations or nation-states.

As to the human rights approach, in its focus on legal rights and states of being within present political and judicial institutions—domestic and international, and its propensity to support the status quo, this approach fits well within the Narrow IEJ category. Nonetheless I contend that we cannot fit the entirety of the human rights literature in the Narrow IEJ category, principally because the current state of human rights scholarship also speaks to social rights noted above—seen by more traditional liberal scholars as ‘secondary’ rights, following the ‘primary’ political and civil human rights of the Narrow IEJ category.

Broad IEJ. In this approach, effectively addressing environmental justice must go beyond distributive concerns, must implicate issues of social welfare and capacity, and may also be directed to address enduring and institutional impediments to these social goods. In the broad category, liberalism takes on a reform agenda, and contends that systemic changes and accommodations are necessary to serve liberal international environmental justice.

As a threshold matter, not all liberals are fully enamored with the extent to and means by which economic neoliberalism and the ‘Washington Consensus,’ for example, has operated over the past twenty years, and thus with the Narrow IEJ literature that affirms the neoliberal ethos (e.g. Kymlicka 1996; Agarwal et.al. 2002; and Morvaridi 2008). It is indeed the case that classical liberalism reflected a strong moral commitment to the weaker members of society, and those who were victims of modernity and progress (Low and Gleeson 2002). And in its initial formulation liberalism did not hold private property to be inviolate, but to be defended and upheld only where enough was left in common for others (Locke 1988/1714, pp. 288, 291). Thus the positing of the Broad IEJ category’s heightened liberal sensitivity to social and economic inequities is not unprecedented.

The capabilities approach finds a home in the broad IEJ literature because this literature adds substantive content to the liberal notion of affording individuals equal opportunities and life chances. Nussbaum, for example, points out that the capabilities approach calls for positive aids and obligations of the state to ensure that capabilities are realized. Negative freedoms alone leave us exposed to injustice. The ostensibly open and equally distributed market and individual freedoms unaided fall short of ensuring the required realization of the full range of capabilities. Thus the capabilities approach fits well within the reform ethos of a Broad IEJ.

Importantly, the capabilities approach has been also extended to non-human nature, and thus must be addressed within the Ecological IEJ category as well.

Ecological IEJ. Finally, in the ecological justice view, nature must be valued in its own right. The importance of human needs must be counter-balanced by the equally-important needs of non-human nature. Guarding non-human nature may acceptably result in some cases in deleterious impacts on justice among humans.

Nature is not only instrumentally, but inherently and objectively valuable. Some liberal scholars, such as Derek Bell (2006), argue that liberal thought can also advocate for an ecological justice understanding. The difference here for both liberals and critical theorists is that what is sought is not primarily justice for humans, but justice for nature.

In this vein, Nussbaum (2006) and Sen (2009) extend the human capabilities approach to non-human nature, contending that animals, for example, retain a range of entitlements to life and the enjoyment of sentience. Nussbaum argues: “Because it is capable of recognizing a wide range of types of animal dignity, and of corresponding needs for flourishing, and because it is attentive to the variety of activities and goals that creatures of many types pursue, the [capabilities] approach is capable of yielding norms of interspecies justice that are subtle and yet demanding, involving fundamental entitlements for creatures of different types” (2006, p. 327).

On a somewhat different tack Sen argues that we must look beyond human needs in conceptualizing sustainability, because there are aspects of being human that go so far beyond mere need: values, and in particular the “ability to reason, appraise, choose, participate and act” (2009, p. 250). This latter expression of individual freedom must be made part of what we mean by ‘sustainable development.’ But it is this same freedom which then permits us to posit a value to protecting an endangered species even though it would limit a sanitized view of development.

Typology Summary. In conclusion, then, the IEJ literature plainly makes room for a liberal conception of IEJ—for each of the three approaches to liberal justice presented in this paper. That is, the puzzle which animates this study—the issue of being able to examine the concrete impacts of a liberal approach to IEJ—holds some significant degree of promise in that the concept is legitimate and that thus a reasonably defensible verdict on FDI and IEJ can be reached.

IEJ and the IFC. In view of the debates over FDI and IEJ, this study contends that the best way to probe the relevance of the various arguments is to dig into the facts of particular FDI investment activities in the developing world empirically, and to seek to apply as neutral a lens as possible to uncover how the day to day aspects of specific investment projects alter environmental goods, bads, and access, as well as rights and capabilities (and thereby the life prospects and livelihoods) of situate populations. To provide opportunities for the employment of such a lens, as stated above I consider FDI that has been subjected to state-of-the-art environmental and social assessment, specifically the FDI sponsored by the World Bank Group's International Finance Corporation ("IFC"). I have selected the IFC as the venue within which to test a liberal IEJ, because in my view it is a best-case scenario within which to probe for the most positive possible environmental and related social outcomes of FDI and, related thereto, the impact of liberal thought and investment upon IEJ within host countries. If a liberal approach to development through FDI sponsored by the IFC cannot sustain close inquiry, then the general notion of a positive role for FDI in the context of IEJ is fairly in question.

Best Case Scenario? I say 'best-case scenario' for several reasons: First, FDI projects that are privately financed are screened for social and environmental impacts inconsistently. That is, while most countries of the South have enacted environmental impact assessment

requirements and guidelines, for example, their application in both substance and procedure is not consonant as among different countries, or even different FDI projects within the same country (e.g. Lohani et.al. 1997; Modak and Biswas 1999). Projects financed to any extent by the IFC, on the other hand, must undergo a very specific and detailed social and environmental screening, with the application of extensive guidelines and principles for specific industries and economic sectors (see the IFC 2006a *Policy on Social and Environmental Sustainability*, and 2006b *Performance Standards on Social and Environmental Sustainability*, as well as the IFC 2007 *Guidance Notes for the Performance Standards*). Second, the IFC is squarely within the liberal camp as to the potential of FDI to alleviate poverty. The vision of the IFC is “that people should have the opportunity to escape poverty and improve their lives” (IFC 2009, p. v). Their strategy in pursuing this objective includes measures to promote “open and competitive markets in developing countries,” with the ultimate aim of “helping to generate productive jobs and deliver essential services to the underserved” (Ibid).

Third, the IFC has undeniably been a leader and motivator in offering its own social and environmental project criteria to other international financial institutions, by way of the IFC-initiated Equator Principles (www.equator-principles.com; see also discussion in Park 2005, and Park 2007). In that these principles specifically refer to and rely upon the IFC’s *Performance Standards* and *Guidance Notes*, other institutions are beholden to the IFC to keep pace with the most current understandings of and experience in the social and environmental aspects of FDI. Indeed the IFC recognizes and embraces this role (e.g. IFC 2006a, Para. 40).

Fourth, I have chosen the IFC because of the online availability of project documentation, in particular that dealing with the environmental and social dimensions of projects. Finally, the IFC is a viable case study because of its recent entry into the business and human rights issue. In

June 2007 the IFC undertook a joint effort with the UN Global Compact and the International Business Leaders Forum to add to the conceptual process of project screening a human rights component, specifically presaging the requirement that a potential FDI activity should determine the impacts of the proposed enterprise on human rights (IFC et.al. 2007).

IFC on the Ground. I turn then to my overall hypothesis, which constitutes the foundational assumption upon which the empirical portion of this study is predicated. I begin with views that FDI activity in the developing world creates significant and often irremediable social and environmental burdens and injury (e.g. Levy and Newell 2005; Low and Gleeson 2002; Martinez-Alier 2002), and creates pollution havens (i.e. a ‘race to the bottom’) to which TNCs relocate to escape stiffer social and especially environmental regulation (e.g. Kamieniecki and Sansarian 1990; Weidner 2002; Ageyman et.al. 2003).¹ I have plotted this assumption graphically in Figure 3 as follows:

Figure 3:

Race to the Bottom Hypothesis:

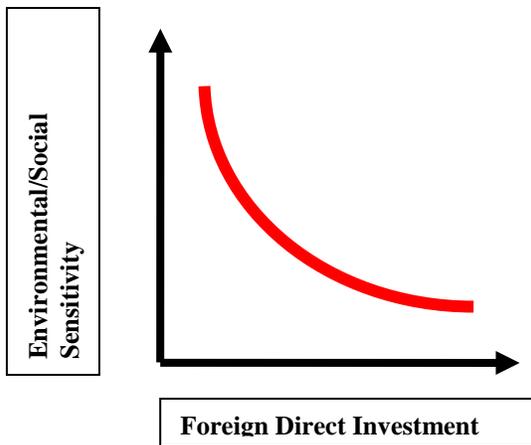
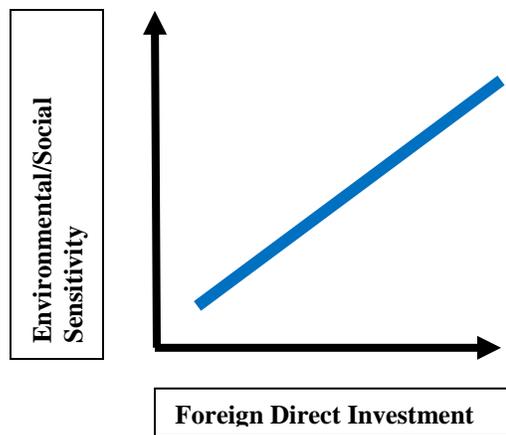


Figure 4:

IFC Hypothesis:



¹ While these claims regarding the negative effects of FDI are important to address and may themselves be viewed through a lens of IEJ concerns, this study seeks to contribute to a presently rather small literature which addresses FDI on the basis of IEJ concepts and issues from inception.

In the race to the bottom model, as FDI activity increases, sensitivity to the environment and the community, and attendant environmental protection decreases proportionally. While social and environmental impacts are indeed variable among the various economic sectors in which FDI may occur, nonetheless the view of some is that FDI creates enduring liabilities and distortions of community life and livelihood that are injurious.

The Figure 4 IFC hypothesis, however, is based on a different proposition. Drawing from not only the fundamental purpose of the IFC, but also the clarity and scope of its own averments as to its desire to recognize the business purpose and potential of improving social and environmental standards in private sector activities, Figure 4 depicts the hypothesis that increased FDI can actually bring social and environmental improvements to host communities and individuals, or at least improved social and environmental impacts compared to FDI projects not subjected to the extent of social and environmental screening required by the IFC. The bottom line for and fundamental claim of this hypothesis is that IEJ is better served in IFC projects than in FDI projects which proceed on their own cognizance.

Empirical Strategy and Process. This study now turns to an empirical study of the IFC with the intent of probing the IFC hypothesis. This empirical component consists of three distinct inquiries regarding a specific dimension of the IFC. In each inquiry, the criteria by which the IFC will be evaluated as to whether it may be fairly said to attain a liberal IEJ will be whether and to what extent the IFC in that inquiry speaks to and resolves specific elements of IEJ injustice as identified in Table 1.

The three empirical inquiries are first, the published literature on the organizational history and identity of the IFC, and any enduring organizational measures and structures

(including a review of the IFC *Performance Standards*)² which may be said to accommodate elements of one or more of the liberal approaches to IEJ. The second inquiry will ask whether the public record of IFC investment projects and practices supports its claim to moderate social and environmental impacts of sponsored FDI. The third inquiry will take up one specific case study—a Category A hydroelectric project in Uganda, to pursue a more detailed examination of how the IFC is or is not consistently implementing its social and environmental programs.

Empirical Inquiry #1: Greening the IFC—Organizational History and Identity. At first blush it may appear that the World Bank and its sister organization, the IFC, should be considered together. After all, they are organizationally bound together in the broad sense, each being intended to bring economic and material growth and benefits to developing countries. They also share the same board of governors, executive directors, and president. However, the IFC has its own governing documents and mandate, and its funding is entirely separate from that of the Bank.

The IFC was formed in 1956 as part of the World Bank Group to encourage private sector economic development in the third world where commercial project finance is generally not available (Haralz 1997, p. 817; Baker 1968, p. 7). The IFC is presently the largest multilateral development bank in the world, registering the largest dollar value of loans and direct equity financing for projects in the private sector in developing countries (Park 2005, p. 102).

As to environmental programs and policies, the IFC was subjected to the same sorts of public protest and scrutiny as the Bank with respect to demonstrated deleterious environmental

² The IFC has adopted eight Performance Standards, which address Social and Environmental Assessment; Labor and Working Conditions; Pollution Prevention and Abatement; Community Health, Safety and Security; Land Acquisition and Involuntary Resettlement; Biodiversity Conservation and Natural Resource Management; Indigenous Peoples; and Cultural Heritage (IFC 2006b).

impacts of some of its projects. Like the Bank, the IFC added environmental staff, and project screening requirements. This began with the addition in 1989 of one environmental officer whose charge it was to staff the IFC's new Environmental Division (Author's own interviews with IFC staff, 1989; Park 2007, p. 546—a Division now staffed with over 100 social and environmental personnel). Like the Bank, the IFC was also heavily lobbied to open up its communication and deliberation processes to public scrutiny and participation.

In 1993, the IFC formally adopted the Bank's environmental standards and policy statements. However, an internal review at the IFC begun in the late 1990s resulted in the adoption by the IFC in 2006 of an entirely new formulation of environmental and social policies and performance standards against which project design, screening, approval and monitoring would be assessed (IFC 2006a; IFC 2006b, discussed above). This move entailed a shift from general policy formulations to specific performance standards for IFC projects, and was accompanied by extensive guidelines generated by the IFC to help elaborate upon the content and implications of the standards (IFC 2007). The IFC also shifted away from a strict compliance approach to the view that environmental and social sustainability served the fundamental business interests of its sponsored projects (IFC 2006a, Para. 7), strengthening claims by some observers that environmental and social concerns reflect a genuine enlightenment at the IFC.

Assessment. It is clear in the preceding discussion that the IFC is expending considerable monetary resources and taking significant initiative to seek a declared environmental and social sensitivity in its policies and programs. That is, the record of the IFC's internal budgetary and personnel decisions weighs against alleging at this point that the IFC is merely engaged in 'greenwashing' or is taking only half-hearted steps with principally public

relations objectives that exist only on paper. Indeed the *Performance Standards* are explicitly intended to serve an outcome-based approach (IFC 2006a, Para. 4), and to pertain for the life of the project (IFC 2006b, Para. 1).

International Environmental Injustice. As to a liberal IEJ, the IFC in this first inquiry may be seen to have addressed distributional IEJ concerns briefly in its 2006 *Policy on Social and Environmental Sustainability* which states that environmental burdens should not fall disproportionately on the poor and vulnerable (IFC 2006a, Para. 8). However, distributional IEJ is also served in the organizational configurations which have developed out of both external and internal concern with respect to social and environmental effects. As a matter of institutional commitment and practice, the IFC has at least implicitly moved the potential social and environmental burdens of a project towards a better balanced condition where the corporation takes on a more equitable sharing of environmental burdens and benefits (at least by assuming higher abatement costs) with local communities and individuals.

This is also seen in the content of the IFC's *Performance Standards*, which have to some extent complied at least implicitly with a liberal (distributive) conceptualization of IEJ. For example, Paragraph 4 of *Performance Standard 1: Social and Environmental Assessment and Management Systems*, establishes the requirement that corporate staff of projects seeking approval must conduct their own Social and Environmental Assessment ("SEA"), and on that basis construct a Social and Environmental Management System ("SEMS") (IFC 2006b). I contend that the process of seeking to identify explicitly the actual and potential negative social and environmental effects of the project will alter the distribution of environmental burdens and negative externalities if only by means of reducing the overall environmental footprint of the project. That is, distributional IEJ is served by altering the extent to which the environmental

burdens of the project are borne disproportionately by those who do not realize the benefits of the project.

Finally, Paragraphs 19-23 of *Performance Standard 1* require a prior and active engagement of project staff with affected local communities to identify for them the potential negative effects of the project and to solicit concerns. However, unlike the call of some for ‘free prior informed consent’ by local communities to FDI projects (e.g. Herz et.al. 2007), the IFC’s requirement is for only ‘free prior informed **consultation**’ (e.g. IFC 2007 *Guidance Note 1*, Para. G35; *Note 4*, Para. G4, emphasis added). It is clear that the aim of community engagement is “broad community support”, but the IFC makes it explicit that this ethos does not provide for any sort of community vote or veto right over the project (IFC 2007, *Note 1*, Para. G54). In this regard, the IFC does not fully satisfy the distributional IEJ concern of meaningful and full participation in environmental decisional access.

The current *Performance Standards* also do not require project staff to ensure the empowerment of local communities to have the latitude and discretion which would be required to facilitate a capabilities approach to IEJ. That is, the *Performance Standards* approach opens up dialogue with local communities, and accepts their participation and views, but in the end the project is permitted to go forward despite environmental risks so long as local views were heard and the project compensates them for loss and damage.

As to the human rights IEJ approach, the IFC’s work in this area is still being tested. While the *Policy on Social and Environmental Sustainability* (IFC 2006a, Para. 8) and *Guidance Notes* (IFC 2007, *Note 1*, Para. G23) do explicitly refer to human rights and the growing focus on the role of the private sector in assisting states in the establishment and protection of human rights, the guidance given is episodic—for example *Standard 2 on Labor and Working*

Conditions as to labor rights (IFC 2006b). A more systematic and delineated approach to human rights in IFC projects may be expected following the conclusion of its current road test of the proposed IFC project human rights policy (IFC et.al. 2007).

As to the extension of the capabilities approach to nature, the IFC has in *Performance Standard 6* addressed the issue of Ecological IEJ to the extent that the IFC imposes restrictions on project clients (project corporate entities) as to the environs in which they may operate. The “natural habitat” surrounding a project is defined as an area which has not to that point been modified by human usage and intrusion. Habitat of this sort may be encroached upon by a project if there is no technically and financially feasible alternative, the proposed project benefits outweigh the environmental costs, and the client mitigates in an “appropriate” fashion any such degradation (IFC 2006b, Para. 7). This process is clearly weighted in favor of discretion and subjectivity on the part of project client staff, and is not abrogated even in areas where IUCN-denoted endangered species may reside. Defined as “critical habitat”, there is no absolute prohibition in such areas against encroachment if the client determines that project activity in the critical area will not negatively impact identified endangered species (Ibid, Paras. 9-10).

Empirical Inquiry #2: From Organization to Praxis: The Public Record. In this inquiry this study will turn primarily to the online documentation of project social and environmental issues and performance on the IFC’s website (www.ifc.org). The IFC maintains over four hundred active projects, each of which may be accessed online as to the IFC’s Summary of Proposed Investment, and its Environmental and Social Review Summary (“ESRS”). While these documents provide extensive information regarding project impacts and management, in some cases the particular project website also contains links to social and environmental studies and other documentation required of the project corporation by the IFC.

The ESRS in particular provides much detail regarding the IFC's own due diligence in reviewing corporate programs, personnel, and practices with respect to determining the applicable IFC *Performance Standards*.

The IFC classifies projects according to anticipated environmental impact, assigning the categories of A, B, C, or FI. Category A projects are those with “potential significant adverse social or environmental impacts that are diverse, irreversible or unprecedented.” Category B projects are those with “potential limited adverse social or environmental impacts that are few in number, generally site-specific, largely reversible and readily addressed through mitigation measures.” Category C projects are those with “minimal or no adverse social or environmental impacts.” FI projects are those engaged with financial institutions in the project host country. (IFC 2006a, Paragraph 18).

This second empirical inquiry begins then with a random sample of IFC projects approved since the inception of the 2006 *Performance Standards* and which are rated as Category A or B projects—that is, projects with significant environmental and social impacts. The results of this sample are set forth at Annex B, which catalogues environmental and social risks of each project, and representative ameliorative measures required by the IFC. The aim of this sampling and analysis is to establish as a threshold matter whether the IFC appears to be living up to its own statements and adopted standards, based on the requirements it has followed in shepherding the project application and approval process across a number of cases.

Assessment. An analysis of the projects set forth at Annex B produces mixed results. The IFC is careful to refer to and identify its *Performance Standards* as the benchmark source for project design and operation. However, in practice the IFC applies these *Standards* somewhat inconsistently. *Guidance Note 1*, Para. G2 states that the client's Social and

Environmental Management System, based on its own SEA, will be provided to the IFC before the IFC will proceed with the investment (IFC 2007). This is corroborated in Para. 3.2.1.b. of the IFC's 2009 *Environmental and Social Review Procedures* (IFC 2009). However, the reality is something different.

For example, where the IFC determines that the concerns of a particular *Standard* are met in and by existing programs and management plans of the project corporation, the IFC sometimes signs off on that element of its *Standards*, and does not require any further action by the corporation in that regard. For example, in Annex B Project 4 the IFC's ESRS does not make clear that the client was required to complete an IFC-compliant SEA prior to loan disbursement. The ESRS rather states only that the company has plans to implement certain social and environmental measures in the future (Project ESRS).³ And the company's monitoring reports are stated to be required by suppliers and local authorities, with no requirement of monitoring reports to the IFC as required by *Performance Standard 1* and *Guidance Note 1* Para. G65. A similar case is evident in Projects 5, 6 and 17, where no formal SEA or SEMS was required of the project companies prior to loan disbursement, in the context of the applicability of and averments to comply with local and state, as well as IFC, requirements.

Notably, in some cases (such as Project 12) the IFC makes compliance with certain provisions of the *Standards* (in Project 20, the client's SEMS) a condition of loan disbursement. It is not clear why this procedure is not followed more often. Indeed, the *Guidance Notes* make clear that the client's social and environmental review must specifically address the project being financed (IFC 2007, *Note 1* Para. G4). And *Guidance Note 1* Para. G35 requires clients to specifically document this analysis (IFC 2007). The IFC does understandably take a more

³ The following discussion of specific projects relies on the IFC's ESRS for a each project, available through a link on the particular project Summary of Proposed Investment page on the IFC's website, www.ifc.org. The "Search IFC Projects" database is searchable by project country and project name, which are set forth in Annex B.

flexible approach with projects that have a smaller environmental footprint, as well as with clients who already have a solid environmental management system (and perhaps ISO certification as well, e.g. Project 15) in place. However, even on projects with large environmental externalities, for instance mining and hydroelectric projects, the IFC sometimes relies as much on future client goodwill as on evidence of existing client compliance with the *Standards* in approving and funding projects.

International Environmental Justice. The impact of the above for purposes of an IEJ analysis is that the potential distributive justice impact of requiring IFC clients to actively engage and consider the social and environmental effects of their enterprise is diluted. The IFC's careful and extensive development of the *Performance Standards* and supporting documentation are compromised when clients are permitted to attend to particular environmental issues only after the project is well underway. In the heat of the moment, a project already in possession of IFC funds and already down the road a ways in project development may well implement a compromised manifestation of a particular *Standard* as compared with processes and procedures required to be put in place from project inception. This is particularly the case where the IFC accords to the client the prerogative to implement or not implement pollution abatement measures during project operation, for example, when in the potentially subjective and self-interested judgment of the client such measures are not "technically and financially feasible and cost-effective" (IFC 2006b, *Performance Standard 3* Para. 3). Thus the potential redistributive effect of the content of the IFC's requirements is not as potent and helpful as it could be.

The research conducted on Annex B does not itself warrant any stronger conclusions regarding capabilities and human rights IEJ than did the first inquiry, notwithstanding the fact that the IFC ESRS for each project requires the client to take on community engagement. This is

because the actual latitude given local communities to define for themselves what ‘development’ should look like, or what sorts of environmental impacts are acceptable and which are not, is not visible in the brief account of community engagement provided in each project ESRS.

Empirical Inquiry #3: Case Study--A Closer Look. This third empirical inquiry will consider a Category A hydroelectric project in Uganda. The Bujagali Energy Ltd. (“BEL”) project is a 250 MW generating plant currently under construction on the Nile River in Uganda, Africa. While small by Northern standards, the Bujagali project will double the amount of electricity currently being produced within Uganda.

The project was begun back in 1998--with the assistance of the IFC and with compliance with the IFC’s Social and Environmental Assessment requirements in place at that time. Early on the project received some focused criticism by environmental NGOs (see e.g. Mucunguzi October 7, 2000), including the Ugandan NGO National Association of Professional Environmentalists (“NAPE”) (Kamagara June 13, 2002, see also the NAPE website <http://www.nape.or.ug/index.php>). In fact the IFC Compliance Advisor Ombudsman still has available on its website two particular investigations it undertook to examine detailed claims by affected persons and communities, including NAPE (IFC CAO 2000; IFC CAO 2001). Opposition continues (e.g. International Rivers 2007, 2009), but the protests have not delayed the project. In 2003 the original private investor backed out, leaving the project prospects uncertain. In 2005 BEL entered the project, and in 2006 undertook its own extensive and updated Social and Environmental Assessment (“SEA”). The IFC approved its own participation in the project April 26, 2007, and disbursed funds on January 22, 2008 (IFC 2006c).

There are two key components of this project which provide a look into IEJ concerns: first, the distribution of decisional access to and the benefits of the project, and second, the

client's resettlement and relocation plan for geographically or economically displaced peoples—an issue that is of relevance for all three liberal IEJ approaches.

Decisional and Benefits Access. Community engagement began with contacting local governmental authorities and establishing with their assistance special committees to represent the interests of local villages and communities (BEL 2006a, pp. 266ff). These committees expressly included women and elderly representatives, as well as those who could speak for orphans and the disabled. Public meetings were held at which BEL presented the proposed project and took comments and concerns from attendees. BEL documents in its SEA that its engagement of affected persons was extensive and ongoing, and that the call by the IFC for 'free, prior and informed consultation' has in its view been satisfied (Ibid, p. 274). Specific measures include conducting public meetings in the local languages, and contact with local kingdom leaders to ensure all who should be consulted have been included. Focus groups held in 2006 in the project locale revealed that from the perspective of local people, the number of meetings held regarding the project were many and that local concerns were well-received (e.g. BEL 2006b, p. 62).

Community meetings as reported by BEL identified widespread support for the project, as articulated by local government and community representatives (see e.g. Table 6.5 at BEL 2006a, pp. 295ff). Concerns raised in community meetings included obtaining access to electricity produced by the project, vocational training and hiring priority so that local people could compete for new jobs created by or as a result of the project, being able to realize new economic opportunities and benefits associated with the project, and improved water supply in view of the project's curtailment of some existing sources.

In response to these concerns, BEL committed to establishing job centers locally, and to ensuring that the project subcontractors hire local persons where qualified (see BEL 2006a, Table 6.7, pp. 302ff). BEL committed to lobbying the Ugandan private company which controls electricity distribution to supply some amount of project power to local communities, noting that BEL could not provide such services on its own. BEL agreed to construct new wells in affected villages, but for cost and maintenance reasons declined to provide each village with piped water. And BEL agreed to serve local development by helping establish markets closer to the resettled villages, and assisting in establishing a microcredit system so local people could obtain capital for business purposes (2006a, Table 6.8, p. 309ff.). BEL has even developed a freestanding Community Development Action Plan addressing specific measures to assist social and economic development in project environs (BEL 2006c).

Finally, in accordance with the *Performance Standards*, BEL established an ongoing grievance mechanism whereby local communities and individuals could register grievances regarding the planning, construction and operation of the project (BEL 2006a, p. 316).

Assessment. It is clear from the preceding evidence that the IFC's requirements for community engagement and consultation have had and are having a significant impact on the conduct of this project. The breadth and duration of public consultations—both past and into the future—and the groundwork necessary to ensure that these meetings and associated committees were representative and culturally appropriate, have required and will require the expenditure of significant monetary and human resources by BEL to effectively understand and respond to these inputs.

International Environmental Justice. However, even an examination as detailed as permitted by this project's documentation does not fully satisfy concerns for distributive IEJ.

For example, the BEL SEA makes clear that its purpose in meeting with local officials and representatives was to satisfy the IFC's requirement for free, prior and informed consultation, not to provide local populations veto power over the project. As it happened, all of the local communities were in support of the project, but there remains significant potential for coercion and disenfranchisement when IFC projects will nearly always go forward in the end.

Distributional IEJ as to sharing the environmental benefits and burdens of the project is a more hopeful scenario. Here BEL has undertaken specific measures to assist local populations in enjoying increased incomes from jobs related to or resulting from the project, and to pursue the health and economic benefits which would accrue to local populations by the provision of electrical power. These benefits may be seen in an IEJ analysis to fairly offset some portion of the new environmental burdens of the project. The actual possibility of power to situate villages cannot be assessed at this juncture, and the time needed to train local people to become qualified for project jobs, for example, may be extensive. But because of the IFC's community engagement requirements, BEL has become aware of and has committed to particular plans to ensure that it is not the only entity which profits from this project.

Resettlement and Displacement. The project participant before BEL had conducted surveys in local communities to identify 'Project Affected Persons' (BEL 2006a, pp. 266ff). Based on those surveys, the prior participant developed and implemented a comprehensive relocation and resettlement plan in the early 2000's. Nonetheless BEL established its own resettlement follow-up plan, to seek from resettled peoples feedback regarding the then-present state of their new locale, residences and livelihoods (BEL 2006b, *Assessment of Past Resettlement Activities and Action Plan* ("Action Plan")).

While the project has had or will have physical and/or economic displacement effects on over 5,000 people, the Action Plan notes that only 85 households were required to be physically or economically resettled. These were all relocated by the earlier participant in this project. Thirty-four households were resettled in a village newly constructed by the project client, and fifty-one were given cash compensation to relocate themselves how and where they so determined (BEL 2006b, p. 4). Cash compensation was also provided for project impacts on existing land use, perennial crops and trees, and existing structures.

The resettled community was provided with new housing including land titles, ventilated pit latrines, rainwater catchments, water bore holes, the promise of a new school (which BEL has taken on itself), and a new health center. The intent of the original project participant was to provide physically and economically displaced persons with comparable livelihood opportunities, small plot farming in particular. To that end displaced persons who chose resettlement were provided with plots of land at a newly developed site, as well as regionally appropriate seeds and farm implements.

In its 2006 public consultation process and focus groups with resettled persons, BEL identified positive outcomes for those who had better homes and better incomes following physical resettlement. Some noted difficulties with land titles, housing repair needs, and poor roads in the new community (BEL 2006a, pp. 295ff; BEL 2006, pp. 13ff). Negative reports also arose among fishermen who were experiencing greater difficulty in access to the Nile river due to increased distances and fencing, with attendant negative income effects (BEL 2006b, p. 17). BEL also learned that the resettlement had indeed caused some significant economic difficulties in that pre-existing and dependable business relationships were interrupted, resulting in lost market and income opportunities (e.g. BEL 2006b, p. 83). Long-standing low-cost reliance on

neighbors for assistance and security was also interrupted or terminated, resulting in higher living costs in the new location.

BEL learned from project affected persons who took cash compensation that many were better off because the cash had facilitated new livelihood options previously unavailable. Economic uses to which cash compensation was put included constructing rental housing, purchasing a motorcycle to use as a taxi and transport vehicle, and engaging in poultry or other animal farming (BEL 2006b, p. 21). Relatedly, as noted above, BEL has undertaken to sponsor a micro-credit entity to serve such economic pursuits among displaced populations.

BEL noted that vulnerable people such as orphans, elderly and disabled persons were not well identified in the earlier relocation program, and are now nearly impossible to identify as original qualified claimants under the resettlement program (BEL 2006b, p. 24).

International Environmental Justice. Distributional IEJ concerns are clearly addressed in this case. These include measures to ensure that displaced persons do not disproportionately bear the environmental burdens of this project. Generous relocation facilities and cash payments clearly had significant ameliorative effect as compared with a hydroelectric dam project where local people are simply left to fend for themselves. The IFC's *Standards* are thus plainly precipitating improved outcomes where projects such as BEL's have dramatic and dire environmental impacts.

Capabilities and human rights IEJ, however, are also implicitly served in this case. Regard for capabilities is seen in the provision of resources needed to maintain existing livelihoods, again a likely fairer and more generous outcome than would have resulted in a project not subject to the IFC's requirements. And the provision of such resources honors past and present evidence as to the working lives affected persons most had reason to value. This

case goes even further, though, in the case of cash compensation. Here affected persons in many cases were given the capability to advance beyond their own historical livelihood options and make economic choices which reflected their own values and creativity.

As to human rights, the documents reviewed for this case do not refer to land or livelihood rights per se. However, the ways in which BEL approached this project and the outcomes of community engagement in effect accorded benefits to affected persons which retained the stature of positive rights. These may indeed be the more secondary—social and cultural rights, but the follow-on resettlement program and associated grievance mechanism accord displaced persons a basis for formal claims as against BEL for the provision of specific benefits. The existence and strength of these rights supersedes a private contract relationship between the two parties, in that BEL has made its obligations and commitments public and has thereby elevated specific project benefits to the status normally accorded human rights.

Conclusion. Based on the theoretical literature and IFC case study in this paper, one may fairly conclude on the evidence that the ambitions of the IFC to serve as a front-line advocate of FDI that takes account of IEJ concerns are being realized and fulfilled. That is, empirical analysis identifies concrete areas in which the IFC is having a tangible and positive effect on the business and environmental practices of corporations engaged in FDI in the developing world, as well as upon other international financial institutions by virtue of the Equator Principles. The result of this engagement by the IFC is that there are good grounds for contending that FDI may fairly accommodate concerns for environmental justice, and that a liberal approach to global investment activity is amenable to positive environmental governance by virtue of being compatible with one or more of the three liberal approaches to IEJ proposed above.

However, this study also calls for caution in commending these gains without qualification. For example, the empirical record also suggests that the IFC is inconsistent in enforcing its SEA requirement as a condition of project approval. This practice may indicate that in fact a full SEA prior to investment implementation is practically infeasible, or at least demanding of a level of resource expenditure which even the IFC is not willing to require. The implication is that FDI projects generally may postpone this range of environmental and social commitments, rather than pushing to adopt such measures at project inception where they have the best chance to durably succeed. The potential for a distributive IEJ is compromised to that extent.

In addition, the demonstration effect of the IFC is limited to the extent that the IFC addresses mostly distributional IEJ concerns, largely bypassing the more social liberal and Broad IEJ human rights and capabilities conceptions and concerns. While the BEL case is somewhat hopeful in this regard, providing a good illustration of successful and effective patterns of engaging the local poor, as a matter of general practice the IFC does not explicitly require that community engagement provide genuine empowerment independent of project needs and interests. And the client is in the driver's seat with respect to determining the stature of rights and associated claims granted as against the project.

The import of this paper for future work and advocacy on FDI and IEJ, then, is that while it is possible now for FDI projects to speak to IEJ concerns and thereby the interests of the global poor, at least as to the IFC positive evidence to date is mostly concentrated in the Narrow distributive IEJ category. The IFC case does suggest that improvements in the sharing and bearing of FDI environmental burdens and benefits, and some measure of decisional accommodation are possible within a liberal IEJ. These possibilities also suggest that the

associated IFC criteria in this regard are appropriate and attainable for projects outside its investment portfolio. However, even these potential gains must be strengthened by seeking a deeper local decisional access and most hopefully, stronger and more systematic benefits to situate communities under the aegis of human rights and capabilities.

Annex A.

Selected Inward Foreign Direct Investment Flows (\$million US)⁴

Region :	The Developed World	The Developing World	Sub-Saharan Africa	Kenya	Uganda	Republic of Tanzania
Year(s):						
1990-1999	285,617	118,185	4,585	21	72	121
2006	972,762	433,764	33,903	51	644	597
2007	1,358,268	529,344	44,384	728	733	647
2008	962,259	620,733	63,647	96	787	744

⁴ Data obtained from the UNCTAD 2009 World Investment Report (UNCTAD 2009), and the UNCTAD 2008 World Investment Directory, Volume X Africa (UNCTAD 2008).

Annex B.

IFC Category A/B Projects Random Sample

Project Name and Location	Environmental and Social Risks	Representative Environmental and Social Measures and Documentation Required
1. Titan Cement Company SA (“Antea-Albania”), Albania, Cement Plant Construction and Operation, Category A, Approved 5/29/08	-Forced resettlement/land use curtailment -Labor and working conditions -Air pollutant and particulate emissions, including CO2 -Plant and human waste treatment -Social impacts of migrant worker influx -Road construction and use	-Public Consultation and Development Plan -Social and Environmental Management System -Social Compensation Plan
2. Secil - Companhia de Cimentos do Lobito, S.A. (“Secil Lobito”), Angola, Cement Plant Construction and Operation, Category B, Approved 12/9/08	-Conceived by the IFC as the cement plant environmental standard-setter for Angola -Air pollutant and particulate emissions, including CO2 -Quarry reclamation -Labor and working conditions -Social impacts of influx of workers	-Quarry Environmental Impact Assessments -Overall Project Environmental Impact Assessment
3. CMC Sisak d.o.o., Croatia, Steel Mill Acquisition and retrofit, Category B, Approved 6/15/2009	-Labor and working conditions -Radioactive scrap metals -Significant air pollutant emissions -Solid and hazardous waste disposal	-Community engagement -Environmental and Social Action Plan -Scrap Processing Study
4. Azerbaijan Electronics CJSC (“SEF Azel”), Azerbaijan, Expansion of Retail Computer Company, Category B, Approved 6/29/07	-Solid waste disposal -Occupational health and safety -Sustainable community relations	-Compliance with applicable <i>Performance Standards</i>
5. Home Mart LLP (“Eurasia RED”), Kazakhstan, Retail Malls Construction Project, Category B, Approved 3/26/09	-Environmentally sound construction materials and practices -Pollution prevention and abatement -Labor and working conditions -Community Health	-Environmental and Social Action Plan -ISO 14001 Certification -Life and Fire Safety Master Plan
6. Uzbek-British Joint Venture Limited Liability Company Katering (“SEF Moi Dom DIY”), Uzbekistan, Home Materials and Furnishing Store Construction, Category B, Approved 5/19/09	-Effluent and solid waste disposal -Labor and working conditions -Community impact -Hazardous materials management	-Emergency Response Plan -Occupational Health and Safety audit -Life and Fire Safety Audit -Hazardous Material Management Plan
7. Nosa Sarl (“AEF Nosa IV”), Cameroon, Laundry Soap Manufacturer Plant Expansion, Category B, Projected Board Date	-Labor and working conditions -Pollution abatement -Chemical storage, handling, and disposal -Waste water treatment	-Environmental and Social Management System -Develop an Occupational and Health Safety monitoring process -Develop an emergency response

11/24/09		system -Build a wastewater treatment facility
8. Kiwara PLC, Zambia, Minerals Mining Exploration Project, Category B, Approved 6/20/09	-Biodiversity encroachment -Solid and liquid waste disposal -Community impact, health and safety -Impact on local water supply	-Environmental and Social Impact Assessment -Conduct groundwater quality sampling -Develop Environmental Policy Statement -Engage experts on biodiversity and archaeology
9. Tigullio Holdings (“A1 Belarus”), Belarus, Construction of a Chain of 128 Discount Stores, Category B, Approved 6/24/08	-Occupational health and safety -Solid waste disposal -Waste water disposal	-Retain a Life and Fire Safety consultant -Create environmental, occupational health and safety and food hygiene management systems, or attain ISO 14001 and 22000 certification -develop a land acquisition policy
10. Hidromaule S.A., Chile, Run of the River Hydroelectric Project, Category B, Approved 5/9/2007	-Labor and working conditions -Pollution prevention and abatement, including CO2 -Community health and safety -Local land rights	-Declaration of Ambient Impact
11. Santa Marta International Terminal Company, S.A., Colombia, Shipping Facility Reclamation and Refurbishing, Category B, Projected Board Date 12/21/09	-Ambient air quality -Solid waste disposal -Community engagement and development -Occupational health and safety -Ship liquid and solid waste management -Demolition debris management	-Has an Environmental Management Plan, and ISO 14001 certification
12. Sichuan Jiuda Salt Manufacturing Co., Ltd. (“Jiuda Salt”), China, Salt Manufacturing Facilities Expansion, Category B, Approved 8/6/07	-Air emissions from generating plants, including CO2 -Brine water disposal -Solid waste disposal (coal slag)	-Ensure all future operations and acquisitions satisfy the <i>Performance Standards</i> -Consolidate existing environmental health and safety guidelines
13. Societe Concessionnaire de l'Aeroport (“Cambodia Airp II”), Cambodia, Airport, Terminal, and Services Expansion, Category B, Approved 6/6/07	-Buried unexploded ordnance -Fuel/hazardous materials storage and management -Community health and safety -Noise pollution -Human resettlement	-Social and Environmental Impact Assessment
14. Pantaleon Sugar Holdings Company Limited (“Pantaleon II”), Guatemala, Sugar Plant and Support Construction and Expansion, Category B, Approved 6/28/07	-Pollution prevention and abatement, including CO2 -Environmentally sound construction practices -Occupational Health and Safety -Wastewater treatment and disposal -Solid waste management and disposal	-Environmental and Social Impact Assessment -Implement an integrated Environmental Health and Safety System -Update all current management policies to satisfy the <i>Performance Standards</i> -Implement groundwater monitoring program

		-Retain air emissions consultant
15. PT Karunia Alam Segar (“Wings Noodle Integration”), Indonesia, Noodle Production Plant Expansion, Category B, Approved 6/19/07	-Occupational health and safety -Air pollution emissions -Solid waste management -Hazardous material storage, handling and disposal	-Environmental and social risk assessment -Ensuring project complies with IFC Environmental Health and Safety Guidelines
16. Milagro S.A.-San Miguel Uruguay S.A., Uruguay, Citrus Fruit Farm Expansion Project, Category B, Approved 1/22/09	-Packing plant labor and working conditions -Wastewater treatment and disposal	-Community engagement program -Upgrade their Social and Environmental Management System -Construct and upgraded wastewater system -Upgrade pesticide management program to reduce pesticide use
17. Wataniya Palestine Mobile Telecommunication Company, West Bank and Gaza, Cell Phone Network Construction and Operation Project, Category B, Approved 1/15/09	-Energy Use -Occupational health and safety -Labor and working conditions -Construction waste disposal (Land acquisition is not an issue)	-Environmental and Social Management System -Utilize most efficient electrical components and systems
18. PJSC "Concern Galnaftogaz" (“Galnaftogaz Expansion Phase II”), Ukraine, Petroleum Storage and Delivery Network Expansion Project, Category B, Approved 12/11/07	-Hazardous materials storage, handling and management -Occupational health and safety -Wastewater management and disposal -Soil contamination and reclamation	-Implement an environmental health and safety program -Submit ongoing storage tank inspection and renovation program results to the IFC -Submit land acquisition plan -Modify safety plan procedure---- -Monitor storage tank ambient gasoline levels
19. Australian Solomons Gold Limited (“Gold Ridge”), Solomon Islands, Open Pit Gold Mine Rehabilitation and Modernization Project, Category A, Approved 9/3/09	-Pollution prevention and abatement -Occupational Health and Safety -Acid mine drainage management and mitigation -Erosion and sediment control -Tailings disposal -Waste rock dumping -Hazardous chemical and blasting compound storage, handling and management -Significant human relocation and resettlement -Biodiversity encroachment -Cultural heritage lands encroachment	-Hire an Environmental Manager, a Safety & Health Manager and a Resettlement Project manager -Develop a chemical and biological limits plan -Conduct and report on regular independent environmental and social monitoring of the project -Retain a third-party expert to oversee construction ongoing -Submit regular reports on environmental and social program progress -Implement and administer a Resettlement Action Plan -Implement and administer a Community Relations Action Plan
20. Allianz Eurasia Health Care, Russian Federation, Healthcare System Outpatient Clinic Expansion Project, Category B, Projected Board Date 7/15/09	-Liquid effluence management -Solid and hazardous (e.g. human materials) waste management and disposal -Occupational health and safety, e.g. epidemiological and bacteriological safety -Land acquisition	-Develop and implement an Environmental and Social Management System -Report on all new land acquisitions to ensure compliance with <i>Performance Standards</i> resettlement guidelines -Preserve all future cultural

	-Patient life and fire safety -Cultural heritage site encroachment	heritage clinic sites in accordance with the <i>Performance Standards</i>
--	---	---

Annex C.

IFC Project Reporting Requirements⁵

Report	Frequency	Responsible Party	Purpose	Bujagali Energy Ltd. Required/Available
Social and Environmental Assessment (SEA) (SE Policy Para. 37; PS 1 Para. 4, 7, and 20; GN 1 Para. 36)	Project Proposal Phase	Client, utilizing “qualified and experienced persons” Under some circumstances, outside experts are required.	To review the proposed project for all potential negative social and environmental effects	Yes/Yes
Project Information Disclosure (PS 1 Para. 19 and 20)	Early in the SEA process	Client	To alert affected communities to the nature, risks and potential benefits of the project.	Yes (including Public Consultation and Disclosure Plan)/Only available from BEL
Social and Environmental Management System (SEMS) (SE Policy Para. 38; PS 1 Para. 13, 14 and 15)	Project Proposal Stage and Ongoing	Client	Overall management proposal to identify all measures to be taken and maintained to address the impacts identified in the SEA	Yes/Yes
Action Plans (PS 1, Para. 16, n.3)	As part of or following the SEA except as noted, and which become part of the Client’s SEMS	Client, describing the actions required to be taken, the prioritization and timing of such measures, and plans for reporting on progress	To identify how the client will undertake specific measures to ensure project compliance with applicable laws, regulations, and IFC Performance Standards	Yes (both BEL & UETCL)/Available only from BEL
Specific plans:				
-Displacement Action Plan (PS 5, Para. 23)		-Client, in the case of the expropriation of land resulting in physical or economic displacement	-To formally address the compensation or other entitlements to be made available to affected persons	Yes/Yes
-Resettlement Action Plan (PS 5, Para. 12; GN 5, Para. 20, 23)		-Client, with outside experts in the case of large scale resettlements	-Whenever physical or economic displacement would result	Yes/Yes
-Biodiversity Action Plan (GN 6, Para. 9, 18 and Annex A)		-Client, with outside experts in the case of critical habitat	-When the project may impact sensitive habitats or endangered species	
-Emergency Preparedness and Response Action Plan (PS 3 Para. 7; GN 2 Para. 60-61)		-Client	-When needed to address response plans for hazardous conditions and/or physical risks to workers and situate	Yes/Not yet

⁵ “SE Policy” refers to the IFC Policy on Social and Environmental Sustainability (IFC 2006a).

“PS” refers to the Performance Standards on Social and Environmental Sustainability (IFC 2006b).

“GN” refers to the Guidance Notes: Performance Standards on Social and Environmental Sustainability (IFC 2007).

“Disclosure Policy” refers to the Policy on Disclosure of Information (IFC 2006e).

<p>-Indigenous Peoples Development Action Plan (PS 7, Para. 13; GN7 Para. 3, 11, 13, 23-24, and Annex A)</p> <p>-Health Impact Assessment; Health Action Plan (GN 4, Annex C)</p> <p>Hazardous Materials Management Plan (PS 1, Para. 16 n3)</p>	<p>-Early in the SEA process</p>	<p>- Client, with the assistance of qualified social scientists when indigenous people will be affected by the project, and other outside experts when there are proposed operations within traditional or customary indigenous lands</p> <p>-Client</p> <p>-Client</p>	<p>communities</p> <p>- Client must document mitigative strategies; must also document its efforts to minimize such land use, its good faith participatory negotiations with such peoples, and the successful gaining of their support for the project when use of traditional lands or resettlement would result.</p> <p>-To identify responsible parties and mitigating measures with respect to community dangers from the project.</p> <p>-to demonstrate that the handling and disposal of hazardous materials will satisfy the requirements of the IFC Performance Standards</p>	
<p>Environmental and Social Review Summary (ESRS) (Disclosure Policy Para. 13-17, 28)</p>	<p>Project Proposal/ Inception Stage</p>	<p>IFC Must be made public by IFC at least sixty/thirty days prior to Board action on Category A/B projects (Disclosure Policy Para. 13(a)).</p>	<p>Based on Client's SEA. Purpose is to ensure proposed project can or will satisfy the Performance Standards.</p>	<p>Yes/Yes</p>
<p>Summary of Proposed Investment (SPI) (Disclosure Policy Para. 14)</p>	<p>While project is under active consideration by the IFC, once the relevant IFC department has concluded that there is a reasonable certainty the project proposal will be forwarded to the IFC Board for approval. This includes reasonable expectations that the Client will engage or has engaged the local community in effective negotiations (Disclosure Policy Para. 12)</p>	<p>IFC Must be made public by IFC at least sixty/thirty days prior to Board action on Category A/B projects (Disclosure Policy Para. 14(d)).</p>	<p>To make information available to the public regarding the nature of the project, the amount of IFC participation, the environmental and social classification and development impact, and including reference to the IFC ESRS and/or Client's social and environmental documentation.</p>	<p>Yes/Yes</p>

Use of Indigenous Peoples' Cultural Resources Report (PS 7, Para. 15)	Episodic	Client	To document that the Client entered into good faith negotiations with Indigenous Peoples regarding the proposed project, and providing for their fair and equitable sharing of the benefits of the project.	
Cultural Heritage Report (PS 8, Para. 9)	Episodic	Client	To document that when project impacts or profits from an area of cultural heritage, the Client entered into good faith negotiations with affected peoples.	
Monitoring Reports (PS 1, Para. 24, GN 1, Para. 60-62, 65)	Annually, or as otherwise required	Client (for projects with significant diverse, irreversible, of unprecedented impacts, Client must retain qualified and experienced outside experts to verify its monitoring information)	To report on progress on elements of SEMS and related Action Plans	Yes/Available only from BEL
Action Plan Reports (PS 1, Para. 26)	No less than annually	Client	To provide the affected communities and persons periodic reports on the progress of the Client's Action Plan(s) associated with the project.	Yes/ Available only from BEL
Internal Monitoring (PS 1, Para. 25)	Periodic	Client	To keep project senior management advised regarding the ongoing effectiveness of the SEMS	Yes/ Available only from BEL

Bibliography

- Achterberg, Wouter. (2001) Environmental Justice and Global Democracy. In *Governing for the Environment: Global Problems, Ethics and Democracy*, edited by Brendan Gleeson and Nicholas Low. New York: Palgrave Publishers Ltd.
- Adger, Neil W., Jouni Paavola, and Saleemul Huq. (2006) Toward Justice in Adaptation to Climate Change. In *Fairness in Adaptation to Climate Change*, edited by Neil W. Adger, Jouni Paavola, Saleemul Huq and M.J. Mace. Cambridge: The MIT Press.
- Agarwal, Anil, Narain Sunita, and Anju Sharma. (2002) The Global Commons and Environmental Justice--Climate Change. In *Environmental Justice: Discourses in International Political Economy, Energy and Environmental Policy*, edited by John Byrne, Leigh Glover and Cecilia Martinez. New Brunswick: Transaction Publishers.
- Agyeman, Julian, Robert D. Bullard, and Bob Evans. (2003) Introduction: Joined-up Thinking: Bringing Together Sustainability, Environmental Justice and Equity. In *Just Sustainabilities: Development in an Unequal World*, edited by Julian Agyeman, Robert D. Bullard and Bob Evans. Cambridge: The MIT Press.
- Anand, Ruchi. (2004) *International Environmental Justice: A North-South Dimension*. Hampshire: Ashgate Publishing Limited.
- Anderson, Michael. (1996) Human Rights Approaches to Environmental Protection: An Overview. In *Human Rights Approaches to Environmental Protection*, edited by Alan Boyle and Michael Anderson. Oxford: Clarendon Press.
- Baker, James C. (1968) *The International Finance Corporation: Origin, Operations, and Evaluation*. New York: Praeger Publications.
- Beckerman, Wilfred. (1999) Sustainable Development and Our Obligations to Future Generations. In *Fairness and Futurity: Essays on Environmental Sustainability and Social Justice*, edited by Andrew Dobson. Oxford: Oxford University Press.
- Bell, Derek R. (2006) Political Liberalism and Ecological Justice. *Analyse & Kritik* 28:206-22.
- Bernstein, Steven. (2004). The Elusive Basis of Legitimacy in Global Governance: Three Conceptions. Working Paper 04/2 Institute on Globalization and the Human Condition, McMaster University. Available at <http://globalization.mcmaster.ca/wps/Bernstein.pdf>
- Bhagwati, Jagdish. (2004) *In Defense of Globalization*. Oxford: Oxford University Press.
- Bosselmann, Klaus. (2001) Human Rights and the Environment. In *Governing for the Environment: Global Problems, Ethics and Democracy*, edited by Brendan Gleeson and Nicholas Low. New York: Palgrave Publishers Ltd.

- Boyle, Alan. (1996) The Role of International Human Rights Law in the Protection of the Environment. In *Human Rights Approaches to Environmental Protection*, edited by Alan Boyle and Michael Anderson. Oxford: Clarendon Press.
- Bujagali Energy Ltd. (2006a), *Social and Environmental Assessment Main Report*.
[http://www.ifc.org/ifcext/spiwebsite1.nsf/0/9F2C12CD6658E6EE8525724A00634B4D/\\$File/HPP%20SEA.1.Main%20Report.pdf](http://www.ifc.org/ifcext/spiwebsite1.nsf/0/9F2C12CD6658E6EE8525724A00634B4D/$File/HPP%20SEA.1.Main%20Report.pdf)
- Bujagali Energy Ltd. (2006b), *Appendix I: Assessment of Past Resettlement Activities and Action Plan*.
[http://www.ifc.org/ifcext/spiwebsite1.nsf/0/9F2C12CD6658E6EE8525724A00634B4D/\\$File/HPP%20SEA.1.Main%20Report.pdf](http://www.ifc.org/ifcext/spiwebsite1.nsf/0/9F2C12CD6658E6EE8525724A00634B4D/$File/HPP%20SEA.1.Main%20Report.pdf)
- Bujagali Energy Ltd. (2006c), *Appendix J: Community Development Action Plan*.
[http://www.ifc.org/ifcext/spiwebsite1.nsf/0/9F2C12CD6658E6EE8525724A00634B4D/\\$File/HPP%20SEA.Appendix%20J%20-%20CDAP.pdf](http://www.ifc.org/ifcext/spiwebsite1.nsf/0/9F2C12CD6658E6EE8525724A00634B4D/$File/HPP%20SEA.Appendix%20J%20-%20CDAP.pdf)
- Chasek, Pamela S., David L. Downie, and Janet Welsh Brown. (2006) *Global Environmental Politics*. Boulder: Westview Press.
- Conca, Ken. (2005) Old States in New Bottles? The Hybridization of Authority in Global Environmental Governance. In *The State and the Global Ecological Crisis*, edited by J. Barry and R. Eckersley. Cambridge: The MIT Press.
- Cutler, A. Claire. (2002) Private International Regimes and Interfirm Cooperation. In *The Emergence of Private Authority in Global Governance*, edited by R.B. Hall and T.J. Biersteker. Cambridge: Cambridge University Press.
- de-Shalit, Avner. (1995) Is Liberalism Environment-Friendly? *Social Theory and Practice* 21:287-314.
- Diefenbacher, Hans. (2006) Environmental Justice: Some Starting Points for Discussion from a Perspective of Ecological Economics. *Ecotheology* 11:282-93.
- Douglas-Scott, S. (1996) Environmental Rights in the European Union--Participatory Democracy or Democratic Deficit. In *Human Rights Approaches to Environmental Protection*, edited by Alan Boyle and Michael Anderson. Oxford: Clarendon Press.
- Dow, Kirstin, Roger E. Kasperson, and Maria Bohn. (2006) Exploring the Social Justice Implications of Adaptation and Vulnerability. In *Fairness in Adaptation to Climate Change*, edited by Neil W. Adger, Jouni Paavola, Saleemul Huq and M.J. Mace. Cambridge: The MIT Press.
- Eckersley, Robyn. (1996) Greening Liberal Democracy: The Rights Discourse Revisited. In *Democracy and Green Political Thought: Sustainability, Rights and Citizenship*, edited by Brian Doherty and Marius de Geus. London: Routledge.

- Esty, Daniel C., and Bradford S. Gentry. (1997) Foreign Investment, Globalization, and Environment. In *Globalisation and Environment*, edited by Tom Jones. Paris: Organization for Economic Cooperation and Development.
- Garcia, Frank J. (2003) *Trade, Inequality, and Justice: Toward a Liberal Theory of Just Trade*. Series on International Law and Development. New York: Transnational Publishers.
- Graham, Edward M. (2000) *Fighting the Wrong Enemy: Antiglobal Activists and Multinational Enterprises*. Washington D.C.: Institute for International Economics.
- Halabi, Yakub. (2004) The Expansion of Global Governance into the Third World: Altruism, Realism or Constructivism? *International Studies Review* 6:21-48.
- Hall, Rodney Bruce, and Thomas J. Biersteker. (2002) The Emergence of Private Authority in the International System. In *The Emergence of Private Authority in Global Governance*, edited by R.B. Hall and T.J. Biersteker. Cambridge: Cambridge University Press.
- Haralz, Jonas. (1997) The International Finance Corporation. In *The World Bank: Its First Half Century*, edited by Devesh Kapur, John P. Lewis and Richard Webb. Washington D.C.: Brookings Institution Press.
- Harris, Paul G. (2001) *International Equity and Global Environmental Politics: Power and Principles in U.S. Foreign Policy*. Burlington: Ashgate Publishing Limited.
- Hayward, Tim. (2005) *Constitutional Environmental Rights*. Oxford: Oxford University Press.
- Herz, Steven, Antonio La Vina, and Jonathan Sohn. (2007) *Development without Consent: The Business Case for Community Consent*. Washington D.C.: World Resources Institute.
- Hurd, Ian. (2003) Legitimacy and Authority in International Politics. *International Organization* 53:379-408.
- International Finance Corporation. (2009) Annual Report. Washington D.C.: International Finance Corporation.
- .(2009) IFC Environmental and Social Review Procedures.
[http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_ESRP2009/\\$FILE/ESRP2009.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_ESRP2009/$FILE/ESRP2009.pdf)
- . (2007) Guidance Notes: Performance Standards on Social and Environmental Sustainability.
[http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_GuidanceNote2007_full/\\$FILE/2007+Updated+Guidance+Notes_full.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_GuidanceNote2007_full/$FILE/2007+Updated+Guidance+Notes_full.pdf)

- . (2006a) Policy on Social and Environmental Sustainability. Washington D.C.: International Finance Corporation. [http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_SocEnvSustainability2006/\\$FILE/SustainabilityPolicy.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_SocEnvSustainability2006/$FILE/SustainabilityPolicy.pdf)
- . (2006b) Performance Standards on Social and Environmental Sustainability. Washington D.C.: International Finance Corporation. [http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_PerformanceStandards2006_full/\\$FILE/IFC+Performance+Standards.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_PerformanceStandards2006_full/$FILE/IFC+Performance+Standards.pdf)
- . (2006c) Bujagali Energy Ltd. Summary of Proposed Investment. Washington D.C.: International Finance Corporation. <http://www.ifc.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/21e1f67a14f119e28525724a00667e87?opendocument>
- . (2006d) Bujagali Energy Ltd. Environmental and Social Review Summary. <http://www.ifc.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/9f2c12cd6658e6ee8525724a00634b4d?opendocument>
- . (2006e) Policy on Disclosure of Information. Washington D.C.: International Finance Corporation. [http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/pol_Disclosure2006/\\$FILE/Disclosure2006.pdf](http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/pol_Disclosure2006/$FILE/Disclosure2006.pdf)
- . (2002) Annual Report: Investing in a Sustainable Private Sector. Washington D.C.: International Finance Corporation.
- International Finance Corporation, Global Compact, and International Business Leaders Forum. (2007) Guide to Human Rights Impact Assessment and Measurement. Washington D.C.: International Finance Corporation.
- International Finance Corporation, Compliance Advisor Ombudsman. (2000) Uganda/Bujagali-02/Bujagali Falls. http://www.cao-ombudsman.org/cases/case_detail.aspx?id=114
- . (2001) Uganda: Bujagali-03/Canada. http://www.cao-ombudsman.org/cases/case_detail.aspx?id=115
- International Rivers. (2009) Bujagali Dam, Uganda. <http://internationalrivers.org/en/africa/bujagali-dam-uganda>
- . (April 26, 2007) World Bank Ignores Inconvenient Truths in Approving Bujagali Dam. <http://internationalrivers.org/en/africa/world-bank-ignores-inconvenient-truths-approving-bujagali-dam>

- Kamaga, Allan. June 13, 2002 Uganda: Anti-Bujagali Lobby Now Seeks Signatures. *The Monitor*.
- Kamieniecki, Sheldon, and Eliz Sansarian. (1990) Conducting Comparative Research on Environmental Policy. *Natural Resources Journal* 30:321-39.
- Kymlicka, Will. (1996) Concepts of Community and Social Justice. In *Earthly Goods: Environmental Change and Social Justice*, edited by Fen Osler Hampson and Judith Reppy. New York: Cornell University Press.
- Lal, Deepak. (2002) *The Poverty of 'Development Economics'*. London: The Institute of Economic Affairs.
- Levy, David L., and Peter J. Newell. (2005) A Neo-Gramscian Approach to Business in International Environmental Politics: An Interdisciplinary, Multilevel Framework. In *The Business of Global Environmental Governance*, edited by David L. Levy and Peter J. Newell. Cambridge, Mass.: The MIT Press.
- Locke, John. (1988/1714) *Two Treatises of Government*. edited by Peter Laslett. Cambridge: Cambridge University Press.
- Lohani, Bindu N., J. Warren Evans, Robert R. Everitt, Harvey Ludwig, Richard A. Carpenter, and Shih-Liang Tu. (1997) *Environmental Impact Assessment for Developing Countries in Asia*. Asian Development Bank.
- Low, Nicholas, and Brendan Gleeson. (2002) Ecosocialization and Environmental Justice. In *Environmental Justice: Discourses in International Political Economy, Energy and Environmental Policy*, edited by John Byrne, Leigh Glover and Cecilia Martinez. New Brunswick: Transaction Publishers.
- . (2001) Introduction--the Challenge of Ethical Environmental Governance. In *Governing for the Environment: Global Problems, Ethics and Democracy*, edited by Brendan Gleeson and Nicholas Low. New York: Palgrave Publishers Ltd.
- Martinez-Alier, Joan. (2002) *The Environmentalism of the Poor: A Study of Ecological Conflicts and Valuation*. Cheltenham, UK: Edward Elgar Publishing Limited.
- Modak, Prasad, and Asit K. Biswas. (1999) *Conducting Environmental Impact Assessment in Developing Countries*. New York: United Nations University Press.
- Morvaridi, Behrooz. (2008) *Social Justice and Development*. New York: Palgrave Macmillan.
- Mucunguzi, Julius. October 7, 2000 Uganda: Swiss NGOs Protest over Bujagali Dam. *The Monitor*.
- Neumayer, Eric. (2001) *Greening Trade and Investment*. London: Earthscan.

- Nussbaum, Martha. (2006) *Frontiers of Justice: Disability, Nationality, Species Membership*. Cambridge: Harvard University Press.
- . (2000) *Women and Human Development: The Capabilities Approach*. Cambridge: Cambridge University Press.
- Paavola, Jouni. (2003) Environmental Decisions and Theories of Justice: Implications for Economic Analysis and Policy Practice. *Forum for Social Economics* 33:33-43.
- Park, Susan. (2005) How Transnational Environmental Advocacy Networks Socialize International Financial Institutions: A Case Study of the International Finance Corporation. *Global Environmental Politics* 5:95-119.
- . (2007) The World Bank Group: Championing Sustainable Development Norms? *Global Governance* 13:535-56.
- Rawls, John. (1999) *The Law of Peoples*. Cambridge: Harvard University Press.
- . (1971) *A Theory of Justice*. Cambridge: Harvard University Press.
- Redgwell, Catherine. (1996) Life, the Universe and Everything: A Critique of Anthropocentric Rights. In *Human Rights Approaches to Environmental Protection*, edited by Alan Boyle and Michael Anderson. Oxford: Clarendon Press.
- Rosenau, James N. (1995) Governance in the Twenty-First Century. *Global Governance* 1:13-43.
- Ruggie, John Gerard. (2004) Reconstituting the Global Public Domain: Issues, Actors, and Practices. *European Journal of International Relations* 10:499-531.
- Sachs, Aaron. (1995) *Eco-Justice: Linking Human Rights and the Environment*. Washington D.C.: Worldwatch Institute.
- Schlosberg, David. (2007) *Defining Environmental Justice*. Oxford: Oxford University Press.
- Sen, Amartya. (1999) *Development as Freedom*. New York: Anchor Books.
- . (2009) *The Idea of Justice*. Cambridge: Harvard University Press.
- Shrader-Frechette, Kristin. (2002) *Environmental Justice: Creating Equality, Reclaiming Democracy*. Oxford: Oxford University Press.
- Shue, Henry. (1996) Environmental Change and the Varieties of Justice. In *Earthly Goods: Environmental Change and Social Justice*, edited by Fen Osler Hampson and Judith Reppy. Ithaca: Cornell University Press.

- Stammers, Neil. (1999) Social Movements and the Social Construction of Human Rights. *Human Rights Quarterly* 21:980-1008.
- Stavis, Dimitris. (2006) The Trajectory of the Study of International Environmental Politics. In *International Environmental Politics*, edited by Michele M. Betsill, Kathryn Hochstetler and Dimitris Stavis. New York: Palgrave Macmillan.
- Talukdar, Debabrata, and Craig M. Meisner. (2001) Does the Private Sector Help or Hurt the Environment? Evidence from Carbon Dioxide Pollution in Developing Countries. *World Development* 29:827-40.
- Tikku, Anup. (1998) The Interplay of Foreign Investment and Intellectual Property. *Third World Quarterly* 19:87-113.
- United Nations Conference on Trade and Development. (2009) World Investment Report. New York: United Nations. http://www.unctad.org/en/docs/wir2009_en.pdf
- (2008) World Investment Directory, Volume X Africa, New York: United Nations http://www.unctad.org/en/docs/iteit20075_en.pdf
- Wapner, Paul. (1997) Environmental Ethics and Global Governance: Engaging the International Liberal Tradition. *Global Governance* 3:213-31.
- Weidner, Helmut. (2002) Capacity-Building for Ecological Modernization: Lessons from Cross-National Research. *American Behavioral Scientist* 45:1269-340.
- Wight, Colin. (2006) *Agents, Structures and International Relations: Politics as Ontology*. Cambridge: Cambridge University Press.
- Wissenburg, Marcel. (2006) Global and Ecological Justice: Prioritising Conflicting Demands. *Environmental Values* 15:425-39.
- Wolf, Martin. (2004) *Why Globalization Works*. New Haven: Yale University Press.
- Woods, Kerri. (2006) What Does the Language of Human Rights Bring to Campaigns for Environmental Justice? *Environmental Politics* 15:572-91.
- Zarsky, Lyuba ed. (2004) *International Investment for Sustainable Development*. London: Earthscan.