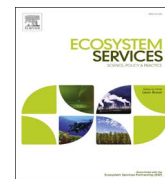




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# The World Bank's environmental strategies: Assessing the influence of a biased use of New Institutional Economics on legal issues

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## ABSTRACT

The World Bank considers itself as “a leader in piloting payments for ecosystem services”. This article explores how the World Bank gradually integrated environmental and legal issues within its strategic framework with a particular focus on its economic theoretical influences.

In the early 1990s, the New Institutional Economics became the main influence concerning the analysis of institutional arrangements and legal issues. We distinguish between different branches within the NIE. One remained very close to the mainstream or orthodox economics and tended to focus on private property rights as the central legal issue. We demonstrate that this branch fitted with both the market-friendly policies supported by the WB, and with the theoretical and statistical tools used by the WB's economists. It induced a very specific analysis of legal and institutional issues. It also involved a kind of theoretical path dependency, which influenced a market-oriented analysis of ecosystem services and impoverished the institutional and legal debates concerning the WB's environmental strategy.

We suggest that the other branch of the NIE, as developed by the Bloomington School, offered another framework to tackle environmental issues regarding the diversity of institutional and legal arrangements.

We conclude on the ambiguous use of economic theory for addressing environmental and legal issues.

## 1. Introduction

Recently, development questions have been structured around environmental issues and there has been a growing interest in the concept of ecosystem services to organize the relationship between humans and nature in the framework of an Inclusive Green Growth (OECD, 2011, 2013, 2015; The World Bank, 2012). Since the World Bank (WB) considers itself as “a leader in piloting payments for ecosystem services” (The World Bank, 2009, 52) and given the supposed role of the WB in the success of neoliberalism (Williamson, 2000; Stiglitz, 2002; Fine, 2002), it seems important to examine the way the WB has gradually integrated environmental issues into its discourse in a context of growing concerns about the neoliberal management of ecosystem services (Gómez-Baggethun and Ruiz-Pérez, 2011; Arsel and Büscher, 2012; Dempsey and Robertson, 2012; Kallis et al., 2013; Parr, 2015; Knox-Hayes, 2015; Prévost, 2016; van den Belt and Stevens, 2016). We focus here on the theoretical framework through which the WB deals with legal issues in order to enhance the multidisciplinary discussion within this special issue of *Ecosystem Services*.

By the early 1990s, the analysis of the role of institutions in

development had become a central theme to explain the failure of the structural adjustment strategies pursued during the 1980s (Ménard and du Marais, 2008). This is particularly reflected in the idea that economic liberalization also involved addressing the legal structures of developing countries: during this time, the success of previous reforms implied an institutional adjustment and a modification of the law in developing countries (Ortiz, 2003). Gradually, the idea that “institutions matter” became commonplace in development theories (Rodrik, 2004) so that the New Institutional Economics (NIE) thus seemed to have become the new mainstreaming theoretical framework for development strategies among policy makers and international organizations in charge of development (Jameson, 2006). In this perspective, the WB has quickly defined the conditions in which an equitable legal framework can be envisaged that would be favourable to economic development and for meeting the needs of the poor (The World Bank, 1992b). The principles gradually defined during the 1990s still constitute the core of the institutional issues within the WB.

But “the widespread agreement that the right institutions are the key to economic productivity and progressiveness” (Nelson, 2007, 313) relies on a kind of vagueness concerning the definition of what institutions are and how they affect economic performance. The

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apparent success of the NIE conceals a very wide range of theories and authors whose hypotheses, methods and conclusions are very different and even contradictory. This therefore translates into very different and even contradictory interpretations concerning the political use of NIE, which have been suspected of being “used to support neoliberal policies aimed at widening the sphere of private property and the social fields in which market laws reign” (Palermo, 1999, 282).

As we demonstrate, the theoretical framework of the WB may have been influenced by a specific interpretation of the NIE, which has tended to reduce legal issues to the identification of a number of broad principles focusing on property rights. On the basis of bibliographical materials detailed in Appendix 1, we critically assess to what extent this interpretation of the NIE has influenced the WB's environmental strategy and limited the range of possibilities from which institutional and legal reforms can and must be thought.

In Section 2, we define the WB's framework as a system of political economy in the sense defined by J. Schumpeter. We identify a kind of theoretical path dependency due to the persistence of both the influence of mainstream economics and a market-friendly bias.

In Section 3, we detail different and even contradictory interpretations of the NIE and the way in which the market-friendly bias has determined a specific interpretation of NIE within the WB. We show that this interpretation tends to reduce legal questions to property rights and describe how it influenced the first *World Development Report* on the environment in 1992.

In Section 4, we focus on the way the WB gradually integrated ecosystem services issues into its environmental strategy and to what extent it remains influenced by a specific interpretation of institutional and legal issues. In particular we show that despite the WB's growing interest in governance issues and the recognition of a certain institutional diversity, we found that cognitive frameworks formed in the 1990s were still present in the background.

In Section 5, we identify the other paths which could have been explored within the NIE itself, particularly the works of E. Ostrom and the Bloomington School. These works, which are sometimes referred to in the WB's drafts and reports, could have provided a rich framework for dealing with legal issues applied to biodiversity, by addressing the actual complexity of legal structures and governance dynamics.

We conclude by questioning the link between economic theory, and institutional and legal arrangements.

## 2. The World Bank's Framework as a system of political economy

The task undertaken here is difficult because, within the space of just a few pages, we must place a specific focus onto a debate that is particularly dense. We therefore wish to clarify our objective: the purpose of this analysis is to highlight the risks associated with the influence of a reductive vision of institutional issues on legal debates.

This simplistic view, which is the result of complex processes within international institutions, has been described and studied by several researchers. The production of economic research within the WB was criticized even by former chief economists and those recognized within the organization (Stern and Ferreira, 1997; Banerjee et al., 2006; Stiglitz, 2006b). Among the difficulties highlighted, we analyse some of the most important here including the pyramidal organization of the WB and the ideological weight of the chief economists (Cammack, 2004; Banerjee et al., 2006; Peet, 2009), but also a kind of “theoretical path dependency” associated with an “art of paradigm maintenance” (Broad, 2006). We consider that the existing literature demonstrates a type of ideological heaviness within the WB. We only apply the idea to environmental examples (and then the associated legal issues).

Similarly to other international organizations such as the OECD and the IMF, the WB seeks to mainstream policy making through a general strategic framework. We place a great emphasis on the need to distinguish between economic theory and the use that is made of it

through translation processes, which are subject to both ideological constraints and to the need to produce a general framework that, by definition, is based on a universalist and therefore simplistic rationale of the complexity of real phenomena.<sup>1</sup> For example, the annual *World Development Reports* (WDRs) express this framework by presenting both a synthesis of the WB's internal research on a specific topic (environment in 1992, poverty in 2000, institutions in 2002, equity in 2006, climate change in 2010, etc.) and the good practices identified by WB experts.

These reports present an apparent diversity of opinions through numerous and various theoretical references, which could demonstrate a kind of ideological neutrality. The 2006 Report, dedicated to *Equity and Development*, is exemplary and enlightening. It focuses on the interactions between institutions and inequalities and presents different interpretations of equity issues from Rawls, Sen, Nozick, Dworkin and Roemer.<sup>2</sup> However, as Roemer (2006) commented, although the Report insisted on the pluralist conceptions of justice, it remained deeply influenced by utilitarian perspectives concerning the evaluation of the impact of the institutions: “So the repeated attempt of the Report's authors to justify their concern with equity by a bottom-line endorsement of utilitarianism is inconsistent, and missing the main lesson in the evolution of political philosophy in the last 40 years.” (Roemer, 2006, 238). Kanbur (2002) had already underlined the same bias shown by the redaction of the 1999–2000 Report, which was supposed to mark a renewed conception of poverty and development<sup>3</sup> but ultimately retained a close affinity with highly standardized and narrow economic definitions (Cammack, 2004) within a market-oriented framework. Therefore, despite the announced changes concerning a wider conception of economic and social development,<sup>4</sup> the WB's economic culture remains embedded within liberal utilitarianism influenced by mainstream welfare economics. In this context, improving institutions mainly involves implementing rules that improve market functioning.

We realise that there is a risk of reductivism in our reading of the WB's theoretical frameworks and we acknowledge the diversity and richness of the analyses developed in the texts of international agencies and their research departments.<sup>5</sup> Therefore we only aim to indicate which pitfalls we consider essential to avoid the deployment of a blind orthodoxy to the real diversity of actual situations in the environmental field through institutional reform recommendations guided by “inappropriate” theoretical analysis. As we examine further in Section 3.1., D. North, demonstrated the fallacies of using neoclassical theory to address development and institutional issues: “That theory, which economists persist in trying to adapt to fundamental problems of development, is simply inappropriate to deal with the issues of this study” (North, 2005, 169). By “inappropriate” we mean the unreliable application of theoretical frameworks designed for specific problems to issues for which they were not conceived. Indeed, from an institutionalist point of view, such as that of D. North, persisting in using analytical tools for inappropriate topics may be interpreted as a theoretical or ideological path dependency. Moreover, the “scientific” or “theoretical culture” (North, 2005, 35) determines the legitimate

<sup>1</sup> See Colander et al. for a sociological analysis of the phenomena governing the emergence and evolution of mainstream economics (Colander et al., 2004, 2007)

<sup>2</sup> In accordance with a pluralistic perspective, the Report insists on the fact that justice principles depend on free choices of each government.

<sup>3</sup> Especially given the growing influence of alternative definitions due to the work of Amartya Sen and other research on capabilities, empowerment and multidimensional definitions of poverty.

<sup>4</sup> Such changes were claimed and presented as a real paradigm change by the WB President J. Wolfenshon (1995–2005) and its chief economist Stiglitz (1998, 1999). See Section 4 below.

<sup>5</sup> We keep in mind the fact that ideological heaviness can also be subject to criticism within international institutions themselves, as shown in the recent article “Neoliberalism: Oversold?” published in the IMF's *Finance and Development* magazine (Ostry et al., 2016).

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